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ANTIPHON  
THE SPEECHES

EDITED BY MICHAEL GAGARIN

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TO MY PARENTS



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## PREFACE

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Until recently the only notes on the speeches of Antiphon in English were those in the Loeb edition, and there has not been a commentary on all the speeches in any language since that of Maetzner in 1838. The desirability of a complete English commentary first became evident to me when I included a substantial amount of Antiphon in a course on the Attic orators at Berkeley in 1977. The response of students in that class revealed the virtues of Antiphon as a text for teaching undergraduates and graduate students, and I thank my students, especially Andrea Shankman and Ann Cummings, for their enthusiasm and support.

The present work would not exist without the advice and encouragement of many friends and colleagues. Among my specific debts, the greatest is to Pat Easterling, who welcomed my proposal for this commentary many years ago and did not despair (or at least concealed her despair) when a term as department Chair and other duties delayed completion far longer than some would have tolerated. I must also thank Jim Zetzel who sent me collations of the two manuscripts of Antiphon he had made some years ago, Bernd Seidensticker who helped me obtain access to the three Teubner editions of Antiphon that Wilamowitz had annotated and that are now in the Wilamowitz library at the von Humboldt University in Berlin, and my colleague Gareth Morgan who commented on parts of an earlier draft. Though classicists tend to take for granted the availability of the electronic data bank of the TLG and the Pandora search programs, it is worth reminding ourselves how much these tools help us compensate for our inadequate knowledge of Greek literature; no commentator today would think of working without them.

The complete work has been read by Pat Easterling and Tom Cole, both of whom have contributed many useful ideas and have saved me from innumerable errors. Those that remain are, of course, my own.

Finally, Pauline Hire at the Cambridge University Press has been wonderfully patient and helpful with all the (sometimes irritating) details of style and format.

*Austin, Texas*  
*March 1996*

M.G.





# INTRODUCTION

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## 1. ATTIC ORATORY

Antiphon is the first of the Attic orators, men who wrote speeches primarily for the law courts or the Assembly during the century or so from 430 to 320.<sup>1</sup> More than 100 of these speeches survive, many of them complete, on topics ranging from important public issues and serious crimes to business affairs, lovers' quarrels, inheritance, and other personal or family matters. Some of these speeches were composed by the speaker himself, but many of the forensic speeches were written by a "logographer" (speech writer) for someone else to deliver in court, the rule being that, with few exceptions, a litigant had to present his own case. Antiphon delivered only one speech himself – his last, spoken in his own defense at his trial for treason in 411 (Ant. fr. 1 below). It is an accident of preservation that his six surviving speeches all concern homicide, since titles and fragments of his other speeches indicate that he treated many other areas too.

At first the works of the orators were preserved by family and friends, or by booksellers who distributed them as examples for study or imitation.<sup>2</sup> Scholars began studying these works in the third century, collecting texts for the library in Alexandria and forming a "canon" (this use of the term is modern) of ten orators,<sup>3</sup> some of them represented by over 100 speeches. Ancient scholars gathered biographical facts about these authors and produced grammatical and lexicographic notes; and since some of the orators played important roles in the public affairs of Athens, their speeches were also used as evidence for Athenian political history.<sup>4</sup> But until the nineteenth century there was little interest in Attic oratory as evidence for Athenian law – classical Athenian law being of little concern to Roman or later European jurists, whose own

<sup>1</sup> All dates in this book are BC unless the contrary is either indicated or obvious.

<sup>2</sup> Dover's discussion (1968) is very useful, though his theory of joint authorship of speeches is unconvincing (see Usher 1976).

<sup>3</sup> The date and early history of the canon is disputed; Smith (1995) argues that it was Alexandrian.

<sup>4</sup> For the historiographical value of Athenian oratory see Todd (1990b).

laws were not influenced by it – and only recently have scholars realized the value of the orators for the broader study of Athenian society.<sup>5</sup>

Even among ancient rhetoricians the orators other than Demosthenes receive relatively little attention. In his *Rhetoric*, Aristotle cites only Isocrates more than twice; references to the poets – especially Homer, Sophocles and Euripides – are far more numerous.<sup>6</sup> And later writers in antiquity, like Cicero and Quintilian, rarely mention an Attic orator besides Demosthenes,<sup>7</sup> who from at least the time of Dionysius of Halicarnassus (first century BC) was agreed to be the best of the Greek orators.<sup>8</sup> The orators are of interest only to those rhetoricians and literary critics, like Dionysius or Hermogenes (second century AD), whose primary concern is prose style, and here too Demosthenes, the acknowledged master of style throughout the period, dominates the field. This concern with style is still evident in modern scholarship, as, for instance, in the standard works of Jebb and Blass at the end of the nineteenth century;<sup>9</sup> not until Kennedy's ground-breaking work (1963) were the orators studied from the broader perspective of rhetoric in a full sense.

The traditional emphasis on prose style and the consensus that Demosthenes represents the culmination of the genre have affected our assessment of Antiphon, who is commonly seen as an early pioneer whose harsh and unsophisticated style is significant primarily for its influence on Thucydides and later orators. But Antiphon's achievement in prose style is only a small part of his total accomplishment: he is also an important thinker who made notable contributions to legal and philosophical thinking as well as to rhetorical theory and practice. This contribution may be better appreciated as scholars' interests shift from

<sup>5</sup> Webster's book on everyday Athenian life (1969), for example, scarcely mentions the orators. The first scholar to perceive the broader importance of the orators was Kenneth Dover (e.g. Dover 1974, 1978); as he has recently noted (Dover 1994: 157), "when I began to mine the riches of Attic forensic oratory I was astonished to discover that the mine had never been exploited."

<sup>6</sup> "Antiphon" is mentioned three times in the *Rhetoric*; in each case the reference is to the fourth-century tragic poet.

<sup>7</sup> Quintilian still has about as many references to Homer or Plato as to Demosthenes.

<sup>8</sup> Antiquity's high regard for Demosthenes is also evidenced by the large number of surviving papyri of his works and by the existence of scholia to them (scholia to Aeschines were probably motivated by the interest in Demosthenes).

<sup>9</sup> Jebb, for instance, refers to his work on the orators as an "attempt to aid in giving Attic Oratory its due place in the history of Attic Prose" (1875: i xiii).

oratory as a historical record of public or private events to the various agendas—social, cultural, political, or intellectual—that are now being discovered in the speeches. More important, Antiphon can claim to have pioneered the field of written oratory and to have helped open the way for the public performance of oratory to replace drama as the dominant Athenian cultural institution in the fourth century. He is the crucial link between the fifth-century intellectualism of the sophists and the popular culture of fourth-century oratory; and if his prose style does not meet with our approval (see further *Introd.* 8), we should not therefore ignore his many other contributions to Greek thought and literature.

## 2. LIFE OF ANTIPHON

Antiphon of Rhamnus (a coastal deme, or precinct, in northern Attica), son of Sophilus, came from an old Athenian family.<sup>10</sup> Born around 480, he achieved enough prominence in the city to rate occasional mention by the comic poets, but for the most part he avoided public life. In 411, however, he was apparently one of the leaders of a group of aristocrats who staged a coup, replacing the democratic government with a ruling council of 400. This new government soon collapsed and almost all its leaders went into exile, but Antiphon remained in Athens and was tried, convicted and executed for treason. In his description of these events, Thucydides—who is reported to have been a pupil of Antiphon—gives him an exceptionally favorable notice: “Of all the Athenians of his day Antiphon was second to none in integrity (ἀρετή) and had the greatest power of thought and expression. He did not come forward in public or willingly enter any dispute, being regarded with suspicion by the multitude because of his reputation for cleverness (δεινότης). Nevertheless, for those involved in a dispute, whether legal or political, he alone was most able to help whoever consulted him for advice.”<sup>11</sup> Concerning Antiphon’s trial for his role in the revolution, Thucydides adds, “of all

<sup>10</sup> The most convenient collection of ancient testimonia to the life of Antiphon is in Morrison (1972) 114–29.

<sup>11</sup> Thuc. 8.68.1–2: ‘Αντιφῶν ἦν ἀνὴρ Ἀθηναίων τῶν καθ’ ἑαυτὸν ἀρετῇ τε οὐδενὸς ὕστερος καὶ κράτιστος ἐνθυμηθῆναι γενόμενος καὶ ἃ γνοίῃ εἰπεῖν, καὶ ἐς μὲν δῆμον οὐ παριῶν οὐδ’ ἐς ἄλλον ἀγῶνα ἐκούσιος οὐδένα, ἀλλ’ ὑπόπτως τῷ πλήθει διὰ δόξαν δεινότητος διακείμενος, τοὺς μὲντοι ἀγωνιζομένους καὶ ἐν δικαστηρίῳ καὶ ἐν δῆμῳ πλείστα εἰς ἀνὴρ, ὅστις συμβουλευσαιοτό τι, δυνάμενος ὥφελειν.

the men up to my time . . . he seems to me to have made the best defense in a capital case."<sup>12</sup> Further information about his life can be inferred from his speeches. Several lost speeches were written for other Greek cities and one surviving speech (Ant. 5) defends a citizen of Mytilene; this suggests that Antiphon traveled and had connections abroad. His strong and continued interest in public affairs is also clear from the prominence of his clients or opponents (such as Alcibiades or the general Demosthenes). Thus, it appears that by advising and writing speeches for others, Antiphon influenced public affairs without participating in them openly until his last years.

Later sources tell us that Antiphon taught others, which may well be true at least in the sense of informal training if not of a formal school. We also learn that he was the first person to leave written speeches. Earlier orators, such as Themistocles or Pericles, delivered their own speeches and had no need of a written text. Audiences might remember the general lines of argument of these speakers or notable expressions,<sup>13</sup> but to our knowledge Antiphon was the first to write out a speech.<sup>14</sup> Interested in public affairs and legal argument, but wishing to avoid speaking in public, he probably began to advise friends who would be speaking in court; later, perhaps around 430, this practice led to his writing out an entire speech for a friend or client to memorize and deliver as his own. Thus Attic oratory as we know it came into being relatively late in Antiphon's life: his earliest datable fragmentary speech is about 425 (Dover 1950: 53–6), and his three surviving court speeches are probably all from the period 420–411.<sup>15</sup> However, his interest in law and

<sup>12</sup> ἄριστα φαίνεται τῶν μέχρι ἐμοῦ . . . θανάτου δίκην ἀπολογησάμενος. The speech is Ant. Fr. 1 (below).

<sup>13</sup> Herodotus reports that before the battle of Salamis Themistocles contrasted the better with the worse in all things (τὰ δὲ ἔπεα ἦν πάντα τὰ κρέσσω τοῖσι ἥσσοσι ἀντιτιθέμενα, 8.83); and Pericles was remembered for calling the island of Aegina "the eyesore of the Piraeus" (Plut. *Per.* 8.5).

<sup>14</sup> The *Suda* reports (P 1180) that Pericles "was the first to give a written speech in court" (cf. Cicero, *Brutus* 27); but most scholars put more faith in Plutarch's statement (*Per.* 8.5) that he left behind no writings except the texts of decrees (cf. [Plut.] *Moralia* 832d).

<sup>15</sup> Within this time period Dover (1950) attempts to use stylistic evidence to establish a relative order for the court speeches (6, 1, 5), but given the small amount of text and the short space of time, no such conclusion can be secure. Dover's figures on p. 57 are slightly inaccurate and inflate the differences between the Tetralogies and the court speeches.

legal oratory developed earlier, and the three Tetralogies (each with two pairs of opposing speeches written for fictitious cases) were probably composed in the 430s, if not earlier (see Introd. 3).

The most disputed question about Antiphon's life is whether the orator is the same person as the author of the "sophistic" treatises *On Truth* and *On Concord*, who is usually assumed to be the character "Antiphon ὁ σοφιστής" who argues with Socrates in Xenophon's *Memorabilia* 1.6.<sup>16</sup> The debate goes back at least to Didymus in the first century BC (as reported by Hermogenes, *Peri Ideon* 399–400), who evidently argued that stylistic differences between the rhetorical and the sophistic works preclude single authorship. This view does not appear widespread in antiquity; the rhetorical and sophistic works were included in the same corpus and were almost always attributed simply to "Antiphon" with no suggestion of different authorship. However, the various "Lives" of Antiphon do tend to mix together several different Antiphons,<sup>17</sup> and ancient scholars sometimes refer to "Antiphon of Rhamnus," "Antiphon the orator," or (rarely) "Antiphon the sophist."

The separatist position gained strength early in this century with the discovery of several papyrus fragments of *On Truth*, in which the author seems to present an egalitarian view of society and to advocate obedience to the requirements of nature (φύσις) as against the rules of law (νόμος). Some scholars found it inconceivable that this "sophistic anarchist" could be the same man as the aristocrat who in his speeches repeatedly expresses respect for the laws. More recently, however, the unitarian position has gained ground; scholars now recognize that an orator who praises the law in a client's speech before a jury is not necessarily voicing his own opinion, and the papyrus fragments are less often understood as a call to anarchy; moreover a new papyrus fragment has forced a revision of part of the text of *On Truth*, eliminating an earlier reconstruction in which the author appeared to challenge the traditional class structure.<sup>18</sup> Scholars now also recognize that stylistic differences between different works composed for different purposes and

<sup>16</sup> For recent discussions see Avery (1982) (unitarian), Pendrick (1987) (separatist), and Wiesner (1994) (unitarian); cf. Gagarin (1990a), Pendrick (1993).

<sup>17</sup> Other notable Antiphons are an Athenian executed by the Thirty in 404 and a tragic poet living in Syracuse in the early fourth century.

<sup>18</sup> For the new papyrus text see Decleva Caizzi (1989); for an English translation of the revised text see Gagarin and Woodruff (1995) 244–7.

different audiences – some for a reading audience, others for oral delivery (see further Introd. 8 vii) – cannot be used as evidence for separate authorship.

Most compelling, however, is Thucydides' picture of Antiphon of Rhamnus (quoted above), which could serve as the description of a typical sophist: "he had the greatest power of thought and expression" and was "regarded with suspicion by the multitude because of his reputation for cleverness." Indeed σοφιστής is the most appropriate term to describe this well-known logographer (not strictly an orator<sup>19</sup>), who was a leading intellectual of his day, whose special talent was writing speeches for others and who had a reputation for δεινότης, a word suggesting precisely that combination of cleverness, awesomeness and technical skill normally associated with the sophists.<sup>20</sup> Thus it seems impossible that Xenophon or anyone else at the time could use σοφιστής to distinguish a fifth-century intellectual named Antiphon from the logographer Antiphon described by Thucydides. In short, there is so much overlap between what we know of the "sophist" and the "orator," that without much stronger evidence to the contrary we should conclude that they are probably one and the same man.

On this reading Antiphon was a leading Athenian intellectual interested in many different issues of his day from geometry (he proposed a method for squaring the circle) to rhetoric, whose special interest was law and justice. A friend of the rich and powerful, he avoided speaking in public but advised friends on legal matters, ultimately creating the new profession of logographer. Combining a quick intellect with rhetorical skill and a thorough knowledge of the law, he earned large sums, if we are to believe Philostratus, who reports (*Vit. Soph.* 499) that Antiphon was accused of "selling for a high price speeches that run counter to justice, especially to those who are in the greatest danger of conviction." But however successful he may have been for his clients, he lost his final case – the only speech he delivered on his own behalf. With so little left of this speech it is hard to account for this defeat, but the scanty remains may suggest an intellectual arrogance and reluctance to

<sup>19</sup> Antiphon would not be called a ῥήτωρ in the fifth century, since this term was used only of citizens who actually delivered speeches (Hansen 1983).

<sup>20</sup> In Plato δεινὸς λέγειν ("skillful in speaking") is what Protagoras teaches his pupils to become, according to *Prot.* 312d–e. It is also used of Gorgias (*Symp.* 198c); cf. *Ap.* 17b.

descend to the level of the jurors that we later find in Socrates' similarly unsuccessful *Apology* (see commentary on Ant. fr. 1 below).

### 3. WORKS

The speech a client delivered in court presumably kept fairly close to the written text Antiphon had provided him, but there is considerable disagreement as to how much the text may have been changed before it was "published," or made available for copying and distribution to others.<sup>21</sup> Speeches with political significance may have been more susceptible to revision after delivery than those in private cases, where a logographer's reputation would derive first and foremost from his success with jurors. If a private speech was victorious, there would be no reason to alter it for publication, and if it lost, alteration would probably not deceive potential clients. The "published" texts of Antiphon's court speeches, therefore, were probably quite faithful to the texts he provided his clients, and we have little reason to suspect substantial alteration in the century or so before they were collected by scholars in Alexandria.

By the first century BC the works attributed to Antiphon formed a corpus of sixty titles, twenty-five of which Caecilius of Cale Acte declared spurious. These included forensic speeches and theoretical ("sophistic") treatises and were arranged by subject matter, the homicide speeches (οἱ φονικοί) coming first. The six surviving speeches are from this group and probably represent the first six in the ancient corpus. Three of these (1, 5, 6) were written for actual trials and are generally accepted as authentic. The manuscripts also preserve three Tetralogies (2, 3, 4),<sup>22</sup> and we have titles of twenty other works, including Antiphon's final speech "On the revolution" (fr. 1), papyrus fragments of which were discovered in 1907. Later writers also credit Antiphon with an *Art of Rhetoric* and a collection of *Prologues*, but many scholars doubt the authenticity of these. Finally, we have fragments from three "sophistic" works: *On Truth*, *On Concord* and *Politicus*.<sup>23</sup>

<sup>21</sup> See Todd (1990b) 164–7, and Worthington (1991), who relies on a doubtful analysis of "ring-composition" in the speeches.

<sup>22</sup> It is confusing that the numbering of the Tetralogies and the corpus differ; all references in this work are to corpus numbers (e.g. 3 = Second Tetralogy).

<sup>23</sup> For the rhetorical fragments see the editions of Th, G or M; sophistic fragments are collected in DK and G. The definitive text of all the papyrus fragments is now Declava Caizzi (1989).



Since the end of the nineteenth century the authenticity of the Tetralogies has been disputed. There is no hint of doubt in antiquity,<sup>24</sup> but some scholars have argued that historical, legal and stylistic discrepancies set them apart from the three court speeches.<sup>25</sup> These arguments depend, however, on insecure assumptions about the nature or purpose of these works, and the alleged discrepancies can be explained if we keep this factor in mind. Whether the Tetralogies were primarily intended to advertise the author's intellectual and rhetorical skills or to instruct future litigants in methods of forensic argument (or both), they were probably intended to be read, studied, discussed, and perhaps also imitated, improved upon or refuted by anyone interested in such matters. Their purpose is to illustrate types or methods of argument, which were later designated *staseis*;<sup>26</sup> thus they take for granted the general rules of Athenian homicide procedure (each side, for example, delivers two speeches) and concentrate on arguments that might be applicable, *mutatis mutandis*, to many different cases. Information usually included in a real case, factual information in particular, is largely omitted and theoretical or stylistic interests may be indulged beyond what would normally be found in a real case. Thus Antiphon rings the changes on the argument from probability (εἰκός) in the First Tetralogy and on arguments about pollution in all three, though a litigant in a real case would probably not devote so much time to such matters. Rhetorical considerations may at times override legal accuracy, as with "the law prohibiting just and unjust homicide" (see below on 3.2.9), which could not be a formal legal statute in any system but is presented as if it were.

Differences between the language and style of the Tetralogies and the court speeches are discussed more fully below (Intro. 8 vii); for

<sup>24</sup> Three citations from Antiphon by Harpocration (second century AD) are to words found only in the Tetralogies (though they might have also occurred in lost speeches). One of these citations (s.v. ἀγνεύετε) is said to come from "the second (speech)" (β'); the word occurs in the First Tetralogy (2.3.11), indicating that already in Harpocration's day this work came second in the corpus.

<sup>25</sup> Sealey (1984) gives the most recent summary of possible objections and concludes that they are later works. Some of his arguments are discussed at appropriate places in the commentary. See also Carawan (1993), who makes some doubtful assumptions about homicide procedure and argues that the Tetralogies systematically reverse these.

<sup>26</sup> The hypotheses to the three Tetralogies, which are considerably later than the works themselves, assign each to a specific *stasis*; see Russell (1983) 17, with n.72, who links the Tetralogies to the later tradition of declamation (see further introduction to 2).

some scholars they are evidence of different authorship (G, 15) but others explain them as the result of differences in purpose, occasion and perhaps date of composition (Dover 1950: 56–9). Since contemporary prose works, notably Herodotus and the early Hippocratic treatises, are written in Ionic dialect, it is hardly surprising that the Tetralogies, perhaps the earliest works of Attic prose, show signs of Ionic influence (see below n.61, Dover 1950: 57–8). The only other Attic prose work that may be as early is the pamphlet by the so-called “Old Oligarch,”<sup>27</sup> and it too exhibits some slight Ionic coloring.

The Tetralogies belong to the earliest period of Attic prose, which soon superseded Ionic prose as the medium of intellectual communication; their influence on the style of Thucydides, the first great master of Attic prose, is evident, and their complex, sometimes experimental style is evidence of an author who (like Thucydides) is creatively engaged in the intellectual issues of his day. The court speeches, by contrast, were composed not for reading and study, but for oral delivery; in these Antiphon naturally employs a simpler, more purely Attic prose, as would the logographers who succeeded him; but this difference is no reason to doubt his authorship of the Tetralogies.

Finally, the arguments of the Tetralogies fit well with the intellectual interests of the sophistic age and the spirit of experimentation characteristic of the period (Solmsen 1975). In particular, arguments based on probability in the First Tetralogy and the nexus of arguments concerning cause, effect, blame and responsibility in the Second and Third can be paralleled in the work of Corax, Tisias and Gorgias, as well as in fifth-century tragedy and comedy. Thus, although it is always difficult conclusively to prove authenticity, there is no good reason to doubt the traditional ascription of the Tetralogies to Antiphon. Indeed, these works demonstrate well the powers of thinking and speaking so praised by Thucydides, as well as the δεινότης that so aroused popular suspicion.

#### 4. ATHENIAN LAW

Athenian law differed from Roman law and most modern legal systems in its almost total lack of professionalization.<sup>28</sup> In this regard

<sup>27</sup> Officially entitled *Constitution of the Athenians* and found among the works of Xenophon, but from the style and internal references it cannot be by him.

<sup>28</sup> Todd (1993) esp. 1–73 presents an excellent summary of the general character of Athenian law.

law resembled other areas of Athenian government, where many leading officials were chosen by lot for non-renewable one-year terms. The legal process functioned without judges, public prosecutors, lawyers or legal scholars; the nearest thing to a professional was the logographer, who undoubtedly advised his client on legal matters while composing a speech for him.<sup>29</sup> In most cases jurors were selected by lot from those who volunteered, and a small daily stipend helped ensure that those without financial means could serve; cases were usually heard by juries of 200 to 500 men. As in Anglo-American common law, Athenian procedure was adversarial, with jurors deciding for one of the litigants, each of whom presented his own case, even if his speech was written by someone else. An official presided over the case, conducting the preliminary hearings, scheduling and supervising the trial, and announcing the verdict, but only rarely could he make a decision affecting the substance of a case (see 5.8 19n., 6.42n.). There was no fixed standard of proof. Speakers sometimes suggest that jurors should vote for the stronger case, or for acquittal if both cases are equal (e.g. 4.4.9);<sup>30</sup> but sometimes the defendant (understandably) urges a higher degree of certainty (e.g. 5.64–73).

In court each side presented its case in one speech within a specific time limit; in most private cases each then gave a second speech (see *AP* 67.2), probably a rebuttal of the opponent's arguments. No cases lasted more than a day. There was a rule that in a homicide case one should stick to the subject (5.11, 6.9) but there was no mechanism to enforce this rule (other than the disfavor of the jurors), and speakers in all cases had considerable latitude in choosing their arguments; thus subjects such as previous service to the city (or lack of it) could be introduced in an attempt to influence the verdict. Such issues may strike a modern reader as out of place in a legal case, but Athenian law served a rather different purpose, ultimately shaped by its democratic political ideals, in which the worth of an individual to the polis was often as much a concern as strict obedience to the letter of the law or the preservation of individual rights.<sup>31</sup> When the two sides finished speak-

<sup>29</sup> Bonner (1927) is still useful for a practical understanding of the Athenian legal system.

<sup>30</sup> Equal votes from the jurors resulted in acquittal (5.51n.).

<sup>31</sup> The difference on this score between Athenian and modern practice (not theory) should not be exaggerated. As Dover shows (1974: 288–301, esp. 292–5),

ing, the jurors decided by majority vote. No one other than the litigants instructed them on points of law, and jurors were not bound by precedent in any strict sense. Some cases had fixed penalties; in others, after a guilty verdict, the jurors also decided the punishment by choosing between the proposals of each side. There was no appeal from the verdict, but a litigant could rekindle the dispute by charging a witness with perjury or bringing suit on a related issue.

Among the different procedures for litigation at Athens the two most common were the *δίκη* and the *γραφή*. Although both terms could be used generally, *δίκη* of any "case" or "trial" and *γραφή* of any written pleading (e.g. 1.2), they also have specific technical meanings. *δίκη* was the older procedure, used primarily for offenses against individuals; it could only be brought by the victim or his relatives. In a *γραφή*, a procedure introduced by Solon, prosecution was open to any citizen who wished (*ὁ βουλόμενος*); most *γραφαί* were for public offenses. In addition to these, other procedures were available for certain specific crimes. Among these are *εἰσαγγελία*, a less risky procedure than the *γραφή* for prosecuting serious public crimes like treason, and *ἀπαγωγή*, or the summary arrest and prosecution of certain common criminals (but cf. 5.8–19n.), often after an *ἐνδειξις* ("denunciation") made to the Eleven, the officials primarily in charge of jails. It was considered legitimate, even honorable, to prosecute one's personal enemies for public crimes, the idea being that everyone would keep an eye on his enemies. A less honorable motive for prosecution was profit; those suspected of this motive were called "sycophants" (see below Introd. 7).

The first Athenian lawgiver was Draco (c. 620). A generation later (c. 590) Solon wrote new laws superseding Draco's work in every area except homicide, where he reportedly retained Draco's law; thus the homicide laws are praised as the oldest in the land (5.14, 6.2). Over the years amendments were added, but little effort was made to organize or systematize the laws until the last decade of the fifth century, when an official commission collected and organized those laws still in effect. One of the first results was the publication in 409/8 of the text of "Draco's law on homicide" on a stele in the Stoa Basileus in the agora.

the Athenians did not ignore objective factors of guilt or innocence and verdicts today may be influenced by some of the same extra-legal considerations as in Athens.

A fragment of this inscription survives (*IG* 1<sup>3</sup> 104), and enough is still readable for us, with the help of excerpts quoted in Demosthenes 23, to restore the text of most of the first thirty lines.<sup>32</sup>

Homicide<sup>33</sup> was normally prosecuted by means of δίκη φόνου, a private suit brought by a relative of the victim, in which the procedure differed in several ways from that of other cases. The relative first made a public proclamation (*prorrēsis*) naming the killer (if he was known) and then presented the case to the *basileus* ("king"), the archon in charge of homicide cases and of several kinds of religious disputes.<sup>34</sup> The *basileus* made a formal proclamation banning the accused from the agora (and thus from the ordinary law courts, which were located there) and from sacred places, such as temples; the accused was not imprisoned. The *basileus* did not pass judgment on the substance of the accusation, only whether it met the proper legal criteria for bringing a case. The *basileus* held three preliminary hearings (*prodikasiai*) in successive months and brought the case to trial in the fourth month (6.42n.). At the *prodikasiai* the *basileus* heard the testimony of witnesses and the general outline of the arguments to be presented at the trial. Thus a logographer like Antiphon would compose a speech for a trial knowing the general thrust of the opponent's case (Dorjahn 1935).

An accusation of intentional homicide would be tried by the Areopagus, a council made up of former archons,<sup>35</sup> whose once extensive duties were much restricted by the reforms of Ephialtes in 462. Accusations of unintentional homicide, or of killing a metic (resident alien), a foreigner or a slave, were tried near a temple, the Palladion, by a group of 51 *ephetai*; these may have been a committee of the Areopagus. If the accused admitted the killing but claimed it fell under specific rules for lawful homicide, the case was heard at another temple, the Delphinion, also by the *ephetai*. Examples of lawful homicide are killing a man found in bed with your wife or daughter (see Lysias 1), accidentally killing an opponent in an athletic contest or a fellow soldier in battle, and the unintentional death of a doctor's patient.

<sup>32</sup> See Stroud (1968), Gagarin (1981).

<sup>33</sup> For a fuller discussion see MacDowell (1963).

<sup>34</sup> See *AP* 57. The Athenians did not use the modern expression *archon basileus*.

<sup>35</sup> Estimates of the size of the council vary; as many as 200 may have been eligible at a given time, but many were old men, who may not have attended regularly; see Wallace (1989) 94–7.

At a homicide trial the litigants swore especially solemn oaths that their accusation or denial was true. Each side then spoke, plaintiff first,<sup>36</sup> followed by a second speech by each. The logographer probably wrote only the first speech (cf. the reference in 6.14 to a “second speech”), though the Tetralogies show us all four. Witnesses were not questioned but made statements or (after about 375) confirmed written statements that were read to the court; they also swore an oath in support of their side. The penalty for intentional homicide was death and confiscation of property, though the defendant was allowed to go into exile before his second speech, and exile may in practice have been an alternative to death in most cases. Someone convicted of unintentional homicide went into exile; later the victim’s family could allow the killer to return, if they wished. As early as Draco the law allowed the “planner” or instigator to be prosecuted just like the actual killer; this is a crucial factor in Antiphon 6. In Antiphon 5 the procedure of ἀπαγωγή is used for homicide, but this appears to be exceptional (5.8–19n.).

*A note on currency:* the basic unit of Athenian currency was the drachma, which was divided into six obols. For larger sums, a mina consisted of 100 drachmas and a talent consisted of 60 minas or 6,000 drachmas. Modern equivalencies are highly problematic, but it may be helpful to think of a drachma, which was roughly the daily wage of a skilled worker, as worth (in round figures) about \$50 (or £25) in 1996 currency, a mina as about \$5,000 (£2,500) and a talent as about \$300,000 (£150,000).<sup>37</sup>

## 5. LAW AND ORATORY; THE SOPHISTS<sup>38</sup>

As early as Homer (and undoubtedly earlier) the Greeks placed a high value on effective speaking, but the formal study of rhetoric as a τέχνη or “art” began, we are told, in the middle of the fifth century in Sicily

<sup>36</sup> Since a δίκη φόνου was a private suit, the accuser is best referred to as the “plaintiff”; “prosecutor” will be used for accusers in public procedures, including ἀπαγωγή.

<sup>37</sup> Markel (1985) goes into some detail about the cost of living in fourth-century Athens.

<sup>38</sup> Some of the points in this section are discussed more fully in Gagarin (1994).

with the work of Corax and his pupil Tisias.<sup>39</sup> These two are scarcely more than names to us, but another famous Sicilian, Gorgias of Leontini (c. 490–390), developed a new style and method of argument and is reported to have dazzled the Athenians with a speech delivered in 427. Gorgias' *Helen* calls itself an encomium but is also cast as a speech in defense of Helen; it contains innovative views on psychology and the effects of *logos* and displays a method of argument by elimination, termed "apagogic," that is also found in Antiphon (2.1.4 9n.). Gorgias' *Palamedes*, another hypothetical defense speech, rehearses arguments based on *eikós*, or "probability." The *eikós*-argument is found as early as the *Hymn to Hermes* (composed c. 500), but Tisias and Corax developed a new twist, the reverse *eikós*-argument. The classic example concerns a fight between a weak man and a strong man, where the former argues, as expected, that being weak, he is not likely to have assaulted a strong man; the latter counters with a reverse *eikós*: he is not likely to have assaulted a weak man, since he would immediately be suspected of the crime (Arist. *Rhet.* 2.24.11). The reverse *eikós*-argument<sup>40</sup> is found in Antiphon's First Tetralogy (2.2.3, 2.2.6), a work that, like *Palamedes*, is an exercise in *eikós*-arguments, but is not found in actual speeches; significantly it is absent from Antiphon 5, where *eikós*-arguments are common.

Plato severely criticizes the *eikós*-argument, saying that Tisias and Gorgias "saw that probabilities were more to be honored than the truth" (*Phaedrus* 267a); in the *Gorgias* he characterizes rhetoric as a superficial attempt to persuade without regard for the truth of one's case – in contrast to philosophy, which pursues the truth by means of dialectic. Although Plato modifies this view of rhetoric somewhat in the *Phaedrus* and *Laws*, it had considerable influence on later thinkers, and, together with Plato's proclaimed hostility to the sophists, persists to the present day among those who see rhetoric as little more than deceitful decoration, or at best honey on the lip of the cup to encourage another to drink the bitter medicine of philosophical truth.

Needless to say, orators such as Antiphon and Gorgias would not

<sup>39</sup> See Kennedy (1963) 26–51. Cole (1991) and Schiappa (1990) have argued that the term *ῥητορικὴ* (sc. τέχνη) was coined by Plato to designate (and denigrate) an enterprise he strongly opposed; this may be true, and earlier thinkers probably did not use *ῥητορικὴ* of their works but may have called them τέχναι λόγων. <sup>40</sup> See further Gagarin (1994) 51–2.

have accepted such a characterization of their work. For the sophists *logos* was a powerful force with many uses, including especially the ability to overturn traditional ways of thinking in favor of new and better arguments. Protagoras called this enterprise "making the weaker argument stronger" (τὸν ἥττω λόγον κρείττω ποιεῖν),<sup>41</sup> and such arguments naturally raised suspicion among more traditional thinkers, who could interpret this expression to mean "make the worse argument the better." But although the sophists could use *logos* to argue for apparently perverse positions, Protagoras aimed for a standard of "correct argument" (*orthos logos*), and one report not influenced by the hostile Platonic tradition has him discussing with Pericles a legal case rather like that in the Second Tetralogy and asking who was guilty "according to the most correct argument" (κατὰ τὸν ὀρθότατον λόγον, Plut. *Per.* 36.3). And although the First Tetralogy makes much use of εἰκός-arguments, it is clear that the effectiveness of these is limited and they do not have the same force or validity as factual truth.

The Athenian public in the last quarter of the fifth century had mixed feelings about the sophists' use of rhetoric and their manipulation of traditional thinking. The opening scene of Plato's *Protagoras* suggests the excitement a visit by Protagoras could generate, particularly among the young, and Aristophanes' *Clouds* parodies this same eagerness to learn the latest intellectual discoveries. Both works also suggest that the sophists aroused suspicion and hostility, and Thucydides' praise of Antiphon (Introd. 2) confirms this attitude. We might compare the current attitude toward lawyers' arguments in an area like the insanity defense: many might object to the result in cases where someone guilty of a terrible crime is sentenced to only a brief period of hospitalization for insanity; on the other hand, few would wish to return to an era where no defense on the ground of insanity was allowed, an era that was ended by lawyers and others who challenged traditional thinking and worked "to make the weaker argument stronger."

The second half of the fifth century was a period of change in many areas of Athenian life, not least the law. Ephialtes' reduction of the power of the Areopagus and Pericles' institution of pay for jurors around the middle of the century helped increase the amount of litigation in Athens, thus providing fertile ground for someone with

<sup>41</sup> Fr. 6b (DK); cf. Ar. *Clouds* 113–15 and 883–1451 *passim*.



Antiphon's interests and talent. A logographer, acting as both legal adviser and speech writer, would gain considerable expertise in legal argument and forensic strategy. He might develop a specialty, as Isaeus apparently specialized in inheritance cases. He could not, however, appear too skillful. Antiphon aroused suspicion because of his δεινότης, and the defendant in the Second Tetralogy explicitly warns the jurors not to be put off by the subtlety (ἀκριβεία, 3.2.2) of his argument. It was common for speakers (like Socrates in Plato's *Apology*) to disclaim legal experience or rhetorical ability while at the same time delivering a skillfully composed speech. But the Athenians were also fascinated by the new ideas of the sophists, whose impact on all aspects of Athenian culture, including history, tragedy, comedy and philosophy, was enormous. Indeed, the force of Plato's attacks on the sophists, which have made it so difficult to gain an accurate appreciation of their work, in itself testifies to their influence and importance.

## 6. ANTIPHON'S FORENSIC ARGUMENTATION

Antiphon's great strength as a logographer is argumentation—the selection, composition and arrangement of arguments in such a way as to make the best possible case for a client.<sup>42</sup> Antiphon may lack the clarity of exposition of Lysias or the emotional appeal of Demosthenes, and he shows little interest in the development of his speaker's *ethos* (though in Ant. 1 the stepmother is effectively characterized as a villain); but the accumulation of different kinds of argument in his speeches has a forcefulness not present in any later writer. We have already alluded to his use of εἰκός-arguments (Introd. 5), one special form of which may be noted here: the use of a generalization to support a particular case (e.g. 5.53), which is also characteristic of the speeches of Thucydides (Dover 1971: xii). Taken singly the arguments may be questionable, but by combining and often repeating them Antiphon achieves a powerful effect.

In discussing forensic argument it is common for us to think in terms of "rhetorical" arguments and "legal" arguments, with the implication of a well-established opposition between "form" and "content," or subjective and objective concerns. To call an argument "rhetorical" is to

<sup>42</sup> There are useful remarks on the subject in Due (1980).

dismiss it as superficial; to call it “legal” implicitly invests it with the kind of objectivity we consider appropriate in legal cases today. The opposition between form and content, however, first surfaces in Plato;<sup>43</sup> there is no indication that the sophists thought about oratory in this way. The techniques they explored were at the same time stylistically and substantively experimental and provocative and the arguments they created were both legally and rhetorically effective. Or rather, one should say that for the sophists and orators legal and rhetorical effectiveness were virtually the same thing. Rhetorical commonplaces, for instance, such as the *captatio benevolentiae* (appeal for the jurors’ good will) or the related plea of legal inexperience, are usually integrated with the speaker’s main legal arguments. In this work, therefore, although certain passages or features may be identified as “rhetorical,” this should not be taken to imply that they are not also of legal significance; at times the adjective “forensic” will be used to indicate a combined legal and rhetorical perspective.

Since a litigant had only one or two speeches in which to present his entire case, and no issue could be decided separately (as by a judge), all the necessary factual information and every important argument on substance or procedure, fact or law, had to be presented together. A single speech will thus combine (apparently) straightforward narrative, complex argument, emotional appeal, repetitions and digressions, all with the goal of obtaining a favorable verdict. Even more than today a litigant’s primary task was to control the issue – to determine which issues the jurors would consider most important, which questions they would have in their minds as they cast their votes.<sup>44</sup> Naturally, a speaker focused his arguments on points that favored his own case, while at the same time drawing attention away from points that might favor his

<sup>43</sup> The distinction underlies the entire discussion of rhetoric in the *Gorgias* beginning in 449d with the question, what is rhetoric about, and the answer that it is about *logoi* and persuasion; but the distinction is apparently not explicitly formulated until *Republic* 392c, where Socrates distinguishes between what is said and how it is said (ἅ τε λεκτέον καὶ ὡς λεκτέον).

<sup>44</sup> The attempt to control the issue is still fundamental in modern trials, even though a judge may considerably narrow the range of arguments available to litigants. In the murder trial of O.J. Simpson, for example, the prosecution focused on specific factual evidence, whereas the defense raised much broader issues about police conduct and racial prejudice; each side sought to control the question the jurors would have uppermost in their minds.

opponent; a speaker might argue directly against some of his opponent's arguments but on other points it was probably more effective to ignore an opponent's argument entirely. We almost never know the verdict in a case, and even if we did, we would not know which of the speaker's arguments contributed most to his success or failure. However, a logographer like Antiphon could probably learn from jurors which points had or had not been successful, so that arguments that are found repeatedly in speeches probably were known to be effective in most cases.

A hallmark of Antiphon's argumentation is its flexibility. The traditional four-part division of a speech into prologue (προοίμιον), narrative (διήγησις), proof or argument (πίστις), and epilogue (ἐπίλογος) was said to have been devised by Tisias a generation earlier, but Antiphon often follows these divisions only loosely, fitting his presentation to the needs of the case. Thus the narrative in 1 is more detailed and relatively much longer than in 5 or 6, in part because 1 is a speech for the prosecution and thus needs to present the first account of the facts to the jurors, but also because the speaker lacks the evidence that might support other arguments. Antiphon sometimes blurs the line between the different parts of a speech, moreover, so that even where he moves explicitly from narrative of the facts (τὰ πράγματα) to argument, as at 5.25, he in fact continues to present a mixture of both with only a shift in emphasis.

Previous scholars have often sought to find unifying structures or structural principles in the three court speeches, but these have only been achieved at the cost of distortion and misunderstanding. For example, scholars have noted that after the prologue each speech contains a preliminary attack on the opponents;<sup>45</sup> but there are significant differences among these (1.5-13n.) and one must be careful not to ignore individual variations among them. Similarly, the frequent mention of oaths and the procedure of *basanos*, or the interrogation of slaves under torture (Introd. 7), led Solmsen (1931) to conclude that the selection and development of arguments in Antiphon's court speeches was conditioned by the lingering importance of "non-artistic proofs" (πίστεις ἄτεχνοι) as opposed to "artistic proofs" (πίστεις ἐντεχνοι). These terms are Aristotle's, who includes among non-artistic proofs witnesses, *basanoi*, contracts, laws and oaths (*Rhet.* 1.2, 1.15). In early Greek law,

<sup>45</sup> Sometimes called the προκατασκευή (E, 24 7; Reuter 1903).

Solmsen argued, non-artistic proofs operated automatically, so that the presence of a certain number of witnesses on one side or the swearing of a specified oath in itself decided the case; the importance of these "proofs" in early law accounts for their importance in Antiphon, the earliest of the orators. Solmsen's thesis was widely acclaimed, but is now more often rejected.<sup>46</sup> Not only is there virtually no evidence that non-artistic proofs played this kind of role in early procedure, but Aristotle's discussion of these proofs in *Rhetoric* 1.15 makes it clear that despite his initial explanation that the speaker simply finds these proofs "outside" his speech and inserts them without exercising any skill, they do not work automatically but, just like artistic proofs, are material for the speaker to manipulate in accordance with the needs of his argument. Thus, Antiphon manipulates these proofs just like others, according to the needs of the case (Carey 1994); a close look at his arguments will show that he actually puts little emphasis on oaths, and arguments about *basanos* are quite different in 1 and 5 and are in each case determined by the circumstances.

The assessment of these and other arguments is made more difficult by the fact that we only rarely have both speeches from a trial,<sup>47</sup> and we usually have little or no external evidence for the facts of a case; we must thus infer both the facts and the opponent's strategy from the speech we have, a process requiring caution and skepticism. Indeed, Antiphon's words to the jurors in 6.18 can usefully be directed to the modern critic of Attic forensic oratory: "you are forced to reach a verdict on the basis of nothing other than the speeches of the plaintiff and defendant [for modern scholars, only one of these]; you must be suspicious and examine their words in detail, and your vote will necessarily be cast on the basis of likelihood rather than clear knowledge."

If we bear in mind certain general principles,<sup>48</sup> however, we can draw some reasonable inferences about these matters. First, the primary goal of both parties is to secure a favorable verdict; thus every statement must be suspect. Even when a statement is true, it may be only a partial truth, and even a slight amount of exaggeration or distortion may be crucial. We must also ask what the speaker is leaving out of his account

<sup>46</sup> E.g. Vollmer (1958), Due (1980), Gagarin (1990c); cf. E, 84.

<sup>47</sup> The exceptions are Dem. 19 and Aes. 2; Dem. 18 and Aes. 3.

<sup>48</sup> These are more fully elaborated in *MH* 13–14.

and why. Second, the speaker's case is probably not stronger than he claims, and is quite likely weaker. Third, a speaker probably does not ignore all of his opponent's arguments, though he may say nothing about some that his opponent considers crucial. Moreover, when he does allude directly to his opponent's argument, he may be misrepresenting it by, for example, pretending it is more important than the opponent considered it. Fourth, if we feel a speaker's case is extremely weak or overwhelmingly strong, we should seek some explanation for the fact that he or his opponent has brought or contested the case. Fifth, despite the criticisms of Aristophanes and Plato, Athenian jurors were probably reasonably competent to evaluate the speeches of both sides fairly and sensibly. Many served regularly as jurors and gained considerable experience in sizing up the litigants and evaluating their arguments. They were not infallible and they undoubtedly had prejudices, but there is no reason to assume that they could easily be deceived by obviously fallacious arguments. Nor was there necessarily a significant difference between the jurors at the Areopagus or Palladion and those in the popular courts. Litigation was a vital feature of Athenian democratic government; if it routinely resulted in blatantly biased or obviously erroneous judgments, the process could not have endured.<sup>49</sup>

Finally, we must note that these considerations do not apply to the Tetralogies. Since Antiphon controls the speeches on both sides, we must assume that every fact or argument significant for his purpose is included in the text. The legal context is generally consistent with Athenian law, but the Tetralogies pay little attention to the details of actual laws, which may be distorted or ignored. Moreover, since these are not actual cases but examples of forensic argument, the facts are kept to a minimum, so that the entire emphasis can be put on argumentation. For the sake of clarity arguments are often matched point-for-point with counter-arguments in a way that was undoubtedly rare in actual cases. Thus, the reader of the Tetralogies should not ask what are

<sup>49</sup> On the vexed question of the composition of Athenian juries, besides literary works, such as Aristophanes' *Wasps* (for which see Sinclair 1988: 127–35, Hansen 1991: 183–6) there is some evidence in the bronze allotment tablets (*pinakia*) that have been found in Athenian graves, from which one scholar concludes, “the composition of [the body of jurors] would seem to have reflected closely the social and economic composition of the citizen population at large” (Kroll 1972: 263).

the facts or where does the truth lie, but how valid (or perhaps how interesting) are the arguments and what can we learn from them.

## 7. THE RHETORIC OF LAW

An Athenian trial was essentially a staged competition, a verbal contest (*agōn*) between two opponents, in which a litigant's single speech (or two speeches) carried almost the entire burden of his case. The determination of fact and the objective assessment of legal rules were not unimportant to Athenian jurors, but their verdict represented more than a decision as to whether the facts as established constituted a violation of a specific law; they also judged both litigants' overall behavior in light of the general standards of the community and assessed the validity of their claims on the basis of the totality of their behavior. An Athenian trial raised a broader set of issues than modern law deems proper (in theory, at least), and was less concerned with separating subjective (rhetorical) from objective (legal) concerns. Thus certain forensic strategies that are common in the orators may be misunderstood by a reader who takes references to allegedly objective factors at face value. As noted above (Intro. 6), Aristotle claims that a speaker simply finds non-artistic proofs and inserts them into his speech, but his specific advice to orators in *Rhetoric* 1.15 emphasizes the forensic use of these allegedly objective factors, not the "extra-forensic" skills needed to find these proofs. It is characteristic of Athenian forensic oratory (as of much legal and political oratory even today) to pretend that certain terms or concepts designate an objective reality, when in fact their primary value lies in their availability for forensic manipulation. Several of these are prominent in Antiphon's argumentation, and they must be understood in terms of their contribution to the strategy of the single *logos* he wrote for the trial.

One of Aristotle's non-artistic proofs (*Rhet.* 1.15.26), *basanos* or "interrogation under torture," plays a role in each of Antiphon's court speeches.<sup>50</sup> In the orators *basanos* usually designates not the torture of a suspect in a criminal investigation, as occurred in Antiphon 5, but a uniquely Athenian procedure whereby in any legal case, civil or criminal, one litigant could issue a challenge (πρόκλησις) to the other,

<sup>50</sup> Thür (1977) is the fundamental work on *basanos*; the view outlined here is more fully argued in Gagarin (1996).

either offering his own or requesting his opponent's slaves for interrogation. The orators treat this as a real procedure governed (supposedly) by precise rules. The litigant who poses a challenge to *basanos* specifies the question, which must be answerable "yes" or "no." The non-owner is normally in charge of the interrogation but both parties are present, the slave is interrogated and tortured (by whipping or the rack) "until he appears to tell the truth," and either side can apparently call off the process at any time. Attic oratory gives the impression that the use of *basanos* was common (some forty challenges are mentioned), and the orators often praise *basanos* as an effective means of eliciting the truth. Modern scholars generally condemn the process as cruel and irrational.

It is remarkable, however, that although a litigant often speaks of a challenge he has issued and his opponent has rejected, and stresses the information that would have been elicited from the slave had the challenge been accepted, in no known case was the *basanos* actually carried out. In the few cases where we are told a challenge was accepted, one party always reneged before the actual interrogation. Indeed, on closer examination it appears that the rules for *basanos* were in fact devised in such a way that there would be almost no chance of its ever being carried out. This suggests that a litigant's challenge to employ a *basanos* may have normally been made not with the intention of actually examining the slave under torture, but rather for forensic purposes. On this view *basanos* was a forensic device whereby a litigant who wished to include the testimony of a slave in his speech could challenge his opponent, feeling quite confident that his challenge would not be accepted, so that he could then use the rejected challenge in his argument to the jurors. In this way (as we see in Antiphon 1 and 6), information from slaves was actually presented to the court without any physical torture taking place, while at the same time the Athenians could maintain the ideological distinction between slaves, who were subject to torture, and free men, who were not.<sup>51</sup>

The Tetralogies, which generally disregard factual evidence, pay little attention to *basanos* (but see 2.4.8), but they often refer to another forensic concept, the idea of pollution that infects a killer after a homicide.<sup>52</sup> Although a purification ritual may have been required of lawful

<sup>51</sup> There are some interesting similarities between the challenge to swear an oath and the challenge to *basanos*, which need to be explored at greater length.

<sup>52</sup> Parker's study (1983: 104-43) is valuable; see also Moulinier (1952).

killers who were absolved of guilt, there is no evidence that pollution was a significant feature of Athenian homicide law. The idea that a killer is polluted (μιαρός) by his killing is well known from tragedy, particularly in connection with killing in the family, and pollution and purification also play a large role in Plato's *Laws* (esp. in Book Nine), but the Tetralogies present the most elaborate view of pollution as (potentially) attaching not only to the killer, but even to the prosecutor or the jurors who convict the wrong person or who fail to convict the actual killer.<sup>53</sup> This extreme view of pollution (see 2.1.10n.) is sometimes considered a primitive concept motivated by religious considerations, but there is no evidence for it in Homer and even in tragedy pollution does not have this power to infect others. Why then does Antiphon dwell so on pollution in the Tetralogies, which in other respects emphasize rational argument? Again, the answer lies in understanding homicide pollution not as a feature of law or religion, but as material for forensic argument. Antiphon is careful to confine the arguments about pollution to the rhetorically elaborated prologues and epilogues, so that they do not interfere with other considerations. In these appeals to the jurors, Antiphon creates elaborate rules relating to pollution and illustrates the possibilities for rhetorical manipulation of these rules. It is possible that some of these arguments were tested in actual debate in Athens (though we have no evidence of this), as the progressive rationalizing of the sophists stirred resistance among those who held to traditional beliefs,<sup>54</sup> and that Antiphon is demonstrating his virtuosity in manipulating these arguments, but it is unlikely that such arguments carried much (if any) legal weight and it is not surprising that pollution plays little role in the court speeches, or in later oratory.<sup>55</sup>

<sup>53</sup> Dodds's analogy of an impersonal typhoid germ (1959: 36) is apt, though in some cases pollution is said to spread even without contact.

<sup>54</sup> The tensions between rationalism and traditional belief at this time are evident in, e.g., *Oedipus the King*. A modern analogy might be the recent development of "right-to-life" views of the sanctity and "personhood" of a human embryo, which are primarily found among religious "conservatives" but are in fact a rather recent idea.

<sup>55</sup> See 5.81-4; most notable is the absence of pollution from 1, where the intrafamilial nature of the crime (as emphasized by allusions to the *Oresteia*) would make the theme particularly appropriate. For pollution elsewhere in oratory, see Andoc. 1.137-9 and Lys. 6.19, a case dominated by religious concerns.



Another concept that has puzzled scholars is “the law prohibiting just and unjust homicide,” which occurs in the Second and Third Tetralogies (3.2.9, etc., 4.2.3, etc.). A law prohibiting just (δίκαιος) homicide is an obvious paradox and cannot have been an actual law in Athens or anywhere else; more likely it is a product of the sophistic spirit of provocative experimentation that informs the Tetralogies. The “law” is cited in order to illustrate a certain kind of forensic argument arising out of it, not because it is an actual law that affects the case.<sup>56</sup>

Finally, the common accusation of sycophancy, or malicious prosecution (or threat of prosecution) for profit, may be more a rhetorical ploy than an objective label. Certainly the system of allowing anyone who wished to prosecute (Introd. 4) was sometimes abused by those who brought a case only for a share of the fine, or even threatened to bring a case in the hope of “being persuaded” (i.e. being paid) not to bring it, and various procedures were available for prosecuting alleged sycophants; but there is no evidence that sycophancy was objectively definable, and the charge of sycophancy is better seen as part of the “coded rhetoric” (Todd 1993: 93) used by the rich who did not like others, especially their less wealthy, democratic opponents, interfering in their affairs.<sup>57</sup> Every orator could employ the accusation of sycophancy when it suited his purpose (as we see in Anl. 5), but in almost no case can we say with assurance that the charge had an objective basis.

## 8. LANGUAGE AND STYLE<sup>58</sup>

As noted (Introd. 3), Antiphon was the first major figure to write Attic prose. He was influenced, of course, by the spoken language of his time (as used both in everyday conversation and in the courts and other more formal settings), and must in addition have drawn on the two main liter-

<sup>56</sup> See Gagarin (1978b); cf. DC, 21–44, Sealey (1984) 75–6.

<sup>57</sup> See Todd (1993) 92–4; this view is most fully developed by Osborne (1990), against whom the arguments of Harvey (1990) are not entirely successful. In the 1950s a congressional committee accused some Americans of “unamerican activities” – an equally slippery concept.

<sup>58</sup> The only extensive discussion of Antiphon’s style to date is Cucuel (1886). DC (79–82) has a brief discussion of stylistic parallels between the Tetralogies and the sophistic fragments. Denniston (1952) is good on some aspects of style, but says little about Antiphon, of whose style he has a regrettably low opinion.

ary languages of his day, Ionic prose as represented by Herodotus, the medical writers and the (mostly lost) works of sophists like Protagoras, and the dialogue of Attic drama. From these sources he created a powerful and versatile style whose influence is evident in such diverse successors as Thucydides, Lysias and Isaeus. His main contemporary rival in this regard was Gorgias,<sup>59</sup> whose stylistic brilliance was more admired than imitated, at least in the courtroom.

The styles of both men are often termed "poetic," though so little prose remains from the period that specific features can rarely be designated poetic with complete confidence (Dover 1971: xvii). Earlier, unwritten oratory probably showed similar features,<sup>60</sup> and Antiphon's prose may not have been felt as poetic by his contemporaries. To the extent that he did incorporate poetic features, however, these probably represented a conscious effort to give his prose a more artistic tone. The picture of Antiphon struggling to free himself from the grip of poetry (Cucuel 1886: 30) is belied by the fact that more than half a century earlier the Ionian historian Hecataeus had already produced prose that, to judge from the surviving fragments, is accurately assessed by Hermogenes (410 Rabe) as "pure and clear . . . and less poetic [than Herodotus]." Antiphon (like Herodotus) incorporated poetic features by choice, not necessity (see further Introd. 8 ii 5).

Antiphon is writing during the formative stage of Attic prose, and may thus show more variation in matters of dialect, diction, morphology or syntax than most authors. More generally we can say that, like Gorgias, he experimented with style, seeking novel effects that are often interesting, even if unsuccessful; Dionysius describes his style (like Thucydides) as "finely constructed but not at all pleasing" (καλῶς μὲν σύγκειται . . . οὐ μὴν ἡδέως, *Comp.* 10). His carefully devised stylistic effects can be harsh, awkward or confusing, especially in the Tetralogies, where the complexity of syntax, the fondness for periphrasis, and the abundant use of participles sometimes resemble the prose of Thucydides, whose teacher Antiphon was often said to have been. Antiphon made important contributions to the development of Attic

<sup>59</sup> We might include Thrasy Machus if more of his work survived. Denniston, who deplors Gorgias' style, has greater praise for Thrasy Machus (1952: 13-15).

<sup>60</sup> For example, Pericles was famous for his metaphors (cf. above n.13). Compare the rhythmic prose style of many modern preachers, particularly black Americans like Martin Luther King, Jr. and Jesse Jackson.

prose, but the results were often too consciously artistic and experimental to be elegant.

### *i. Dialect*

Aside from occasional Ionicisms,<sup>61</sup> Antiphon writes a form of Attic Greek similar to that of Thucydides, but (like inscriptions of the period) he shows inconsistencies, which editors sometimes remove from the text. Thus he usually writes -σσ- instead of -ττ- but has ἔλαττον in 5.91; he varies between συν- and ξυν- (e.g. 5.87 ξυνειδώς vs. 6.5 συνειδώς in an otherwise identical expression); and he writes both ἑάν (ἄν) and ἦν.<sup>62</sup>

### *ii. Diction*

(1) *Neologisms*. Antiphon is especially fond of new or rare words, many of which he probably coined himself; some of these neologisms supply a needed precision of meaning (e.g. 5.10 ἀνταποθανεῖν), but others seem motivated primarily by a desire for novelty (e.g. 5.9 ἀποψήφισις, where ἀπόλυσις (or a verb) could easily serve). Many of his neologisms are nouns, especially abstract nouns, or compound words, especially verbs. Antiphon also gives more common words meanings that are new or unusual.<sup>63</sup>

(2) *Abstract nouns*. Examples of abstract nouns probably invented by Antiphon<sup>64</sup> are 2.3.1 μιανίαν, 3.4.7 ἀφυλαξία and 5.25 αἰτίαισις; as these examples suggest, the court speeches generally prefer abstract nouns in -σις, the Tetralogies nouns in -ία or -εια, but the significance of this difference is unclear. Another form of abstraction, common also in Thucydides, is the neuter participle with the article (5.73 τὸ ὑμέτερον

<sup>61</sup> See notes on 2.1.3, 2.2.7, 5.70, 6.25, fr. 1b, and Dover (1950) 58. The identification of a word as Ionic is not always secure (2.2.7n.). Herodotus influenced Antiphon's language in other ways too, especially in the court speeches (notes on 1.1, 1.23, 1.29, 5.2, 5.82, 6.30).

<sup>62</sup> For ἦν (not ἦ) as the first person singular imperfect of εἰμί, see fr. 1a.1-9n.

<sup>63</sup> See Cucuel (1886) 19-22, to which we may add 4.1.3 (ἀλιτηρίων), 5.14 (τῶν περιεστῶτων).

<sup>64</sup> For Thucydides' even greater use of abstract nouns see Rusten (1989) 22-3. The lists in Cucuel (1886) 18 are incomplete.

δυνάμενον = "your power"). Abstracts are sometimes personified (e.g. 2.3.1 ἀτυχία), though the precise degree of personification is often difficult to determine.<sup>65</sup>

(3) *Agent nouns*. Antiphon coins agent nouns in various ways: e.g. 2.2.2 ἀνατροπέυς, 2.4.3 ἐλεγκτήρ, 3.3.3 διαγνώμων, 5.33 ἐπιτιμητής, 5.94 γνωριστής. There does not appear to be a significant difference on this score between the Tetralogies and the court speeches.<sup>66</sup>

(4) *Compounds*. Antiphon is fond of compound verbs and seems to have created many new ones, especially in the court speeches; especially striking are his double compounds (e.g. 2.1.10 συγκαταπιμπλάναι, 2.2.13 συνεπιβάντας, 5.76 συνεξαμαρτεῖν, 5.93 συνεξέσωσεν, προαπολείπει, 6.17 ἐπιπροστήθημι). Some compounds provide a needed emphasis (1.19 ἐξαπατωμένη, 5.63 διακινδυνεύειν) or precision (4.4.1 ὑπαπέστη) but others seem virtually identical to a simple verb in tone and meaning (5.94 ἐξεργάσασθαι). Antiphon also forms compounds with prefixes that are not prepositional: 3.2.11 and 5.18 κακοπάθειαν, 5.78 χωροφιλεῖ.<sup>67</sup>

(5) *Poetic diction*. Certain words (e.g. 2.4.5 ἀσπαίρουσι) or constructions can be identified as exclusively or mainly poetic (Cucuel 1886: 22-3); see notes on 1.16, 1.20, 2.1.6, 2.3.10, 2.4.1, 2.4.5, 5.27, 5.41, 6.38, fr. 1a.1-9. Antiphon is also fond of metaphors with a poetic flavor: e.g. 1.13, 5.37, 5.77, 5.93, 6.21.

### iii. Syntax

(1) *Rare syntax*. The use of unusual forms or constructions, such as single τε (1.9n.), and even single μήτε (5.93), or the passive of εὔσεβεῖν (3.3.11), is probably intended to draw attention to itself and thus give emphasis to the point; see also notes on 5.39, 5.45 and 6.30.

(2) *The particle ἄν*. Antiphon sometimes omits ἄν with the potential optative or in the apodosis of a contrary-to-fact condition, and once with πρίν and the subjunctive (1.29). Editors have often wrongly inserted

<sup>65</sup> Denniston has a good discussion of abstracts and personification (1952: 28-40; 31-2 on Antiphon).

<sup>66</sup> Pace Dover (1950) 57, iiγ; there are at least five nouns in -τής in the Tetralogies, and with 2.4.3 ἐλεγκτήρ cf. 5.27 ὀπτήρ.

<sup>67</sup> For other examples see E on 5.2.

ἄν in these passages (1.25n.).<sup>68</sup> This is another practice in which A. is closer to the poets than to later Attic prose (Gil 450, KG 1215 16, 225 6).

(3) *Participles*. Antiphon's fondness for new and experimental syntax is most notable in his use of participles. As Dover observes (1950: 57, iiε), adverbial (circumstantial) participles are especially common in the Tetralogies, where they often accumulate around a single main verb. A fairly simple example is 3.1.2 ὑμᾶς δὲ ἄξιῳ ἐλεοῦντας μὲν . . . οἰκτίροντας δὲ . . . εἵργοντας . . . μὴ περιορᾶν . . . ("I beg you with pity . . . and grief . . . to banish . . . and not to ignore . . ."); Dover quotes 2.3.1, a more complex example.

(4) *The genitive absolute*. Like his predecessor Herodotus, Antiphon often uses a genitive absolute construction, sometimes to very good effect; see especially 3.2.3 5, where the repeated placement of the boy's actions in a genitive absolute reflects the separation and differentiation of the boy's mistakes from the youth's proper behavior (ἄλλου δ' εἰς αὐτὸν ἀμαρτόντος . . . τοῦ δὲ παιδὸς ὑπὸ τὴν τοῦ ἀκοντίου φορὰν ὑποδραμόντος καὶ τὸ σῶμα προστήσαντος . . . διὰ δὲ τὴν ὑποδρομὴν βληθέντος τοῦ παιδός).

(5) *Periphrastic constructions*. In place of a descriptive verb Antiphon sometimes uses a periphrastic construction consisting of a noun (sometimes of his own creation), adjective or participle and a relatively colorless verb; e.g. 1.4 τὴν καταφυγὴν ποιήσεται = καταφεύξεται, 1.9 οὔσαν ἄπαρνον = ἀπαρνούσαν,<sup>69</sup> 2.1.2 φυλακὴν ποιήσωνται = φυλάξωνται (cf. Thuc. 3.46), 2.2.2 ἀνατροπεύς . . . ἐγένετο = ἀνέτρεψεν, 2.2.2 (and elsewhere) ἄρκοῦν . . . ἐστίν = ἄρκεῖ. Particularly striking are periphrases employing an abstract noun instead of a common and obvious verbal construction: 1.6 ἐξουσία ἦν = ἐξῆν, 1.18 γεγένηται ἡ δόσις τοῦ φαρμάκου = δέδοται τὸ φάρμακον.

<sup>68</sup> The MSS of A. present at least five instances of the potential optative without ἄν (1.25, 2.2.4, 3.2.6, 4.4.3, 5.64, cf. 1.10) and six other instances of a contrary-to-fact apodosis without ἄν (3.2.4, 4.2.2, 4.4.2, 5.38, 5.45, 6.48); see also notes on 1.29, 2.2.6, 5.1. In none of these passages is there any other reason to suspect corruption, and to explain all these omissions of this particular word as scribal error seems beyond the realm of probability. We can thus restore the MS text with full confidence.

<sup>69</sup> Cf. 1.10; ἀπαρνέομαι occurs in 2.3.4 and Dem. 21.189. This verb is more commonly compounded with ἐξ-, periphrastic forms of which are predominant in the orators.

The effect of using such periphrases, in many cases at least, is to focus attention on a state of affairs ("the giving of the drug") that can be analyzed rather than an action that is simply narrated ("the drug was given"). This encourages a more analytical view of the action and is in keeping with the general fifth-century move "from *mythos* to *logos*" (to use an old-fashioned expression). A similar effect is achieved by the substantive use of a participle as a predicate with εἰμι: e.g. 6.27 οὔτοι ἦσαν οἱ φεύγοντες (= οὔτοι ἔφυγον), 1.11 ἐγὼ γάρ εἰμι . . . ὁ θέλων (= ἐγὼ γὰρ ἐθέλω). It may be thought odd that this last feature seems to be confined to the court speeches; this is perhaps explainable as a striving for greater clarity, which this construction can achieve.

#### iv. Word order

(1) *Hyperbaton*. As in diction and syntax, Antiphon often strives for unusual effects with word order, most often by *hyperbaton*, or the separation of closely cohering words (Denniston 1952: 47-59). Mild *hyperbaton*, where only a word or two intervenes (e.g. 1.27 τῆς δικαιοσύνης ἂν τύχοι τιμωρίας), is quite common in classical Greek and serves to elevate the tone of the sentence slightly. But Antiphon often experiments with more extreme separation, especially in the Tetralogies; these produce striking effects but sometimes verge on the incomprehensible. In 2.1.9 τὰ μὲν βιασάμενα ταῦτ' ἔστιν ἀσεβῆσαι αὐτόν ("the considerations that forced him to act impiously are these") the separation of αὐτόν from βιασάμενα is perhaps not too difficult; but in 2.4.9 τὰ ἵχνη . . . εἰς τοὺς ἀπολυομένους ἀποδέδεικται ὑπ' αὐτῶν ("the tracks . . . have been shown to lead to those who are acquitted by them") the postponement of ὑπ' αὐτῶν causes real confusion, since its position makes it appear to belong with ἀποδέδεικται ("have been shown by them"), which is impossible in the context.

(2) *Interlocking word order*. As in this last example, *hyperbaton* can also result in interlocking word order, sometimes to the point of confusion; other examples are 4.2.7 ἀποκτεῖναι ὑμᾶς με πείθοντες ("persuading you to kill me"), and 4.3.1 τὰλλα παραπλήσια ἀπολογηθέντα τούτοις ("the other points argued in his defense are nearly the same as these"). Such expressions are confined to the Tetralogies.

(3) *Relative clauses*. A less extreme displacement from normal word order is the placing of a relative clause at the beginning of a sentence

where its antecedent may not be immediately apparent: 5.22 ἐν ᾧ μὲν γὰρ ἐπλέομεν, ἀστέγαστον ἦν τὸ πλοῖον.

### v. Symmetry and variation

(1) *Antithesis*. Although Antiphon sometimes uses antithesis in a rather perfunctory way (e.g. 1.31 ἐμοὶ μὲν . . . ἐν ὑμῖν δέ), often his verbal antitheses reinforce basic substantive antitheses essential to the speaker's case: the stepmother vs. the maid in 1 (see 1.15n.), the boy vs. the youth in 3 (especially in 3.2; see 3.2.4n., 3.2.7n.), the free man vs. the slave in 5, and in every case the speaker vs. his opponents. Some of these oppositions (especially that between the speaker and his opponents) are over-worked, and others seem purely ornamental, but some instances, at least, illustrate Finley's verdict (1967: 70) that antithesis is "an effective means of isolating and therefore clarifying concepts, and its vogue in fifth-century style . . . at bottom springs from the desire for forceful clarity."

(2) *Parallelism*. Antiphon often reinforces his antitheses with parallel features whose effect often lies primarily in their sound; among these are *pariosis* (clauses of equal length) or *isocolon* (clauses with the same number of syllables), *paromoiosis* (similarity of sound in two clauses), one type of which is *homoioteleuton* (similarity of endings), and *anaphora* (repetition of the same word in successive clauses). Only rarely, however, does he combine several of these figures as Gorgias regularly does; e.g. 1.15 εἶναι φάσκουσα αὐτῆς μὲν τοῦτο εὔρημα, ἐκείνης δ' ὑππρέτημα, 3.2.8 οὐ συνηδομένων μὲν οὐδὲ συνεθελόντων ἡμῶν, συναλγούντων δὲ καὶ συλλυπουμενῶν, and 5.74 ὁ μὲν γὰρ πολλῶι πρεσβύτερός ἐστι τῶν ἐμῶν πραγμάτων, ἐγὼ δὲ πολλῶι νεώτερος τῶν ἐκείνῳ πεπραγμένων.

(3) *Variation*. This last example shows how even in closely symmetrical expressions Antiphon, like Thucydides,<sup>70</sup> usually provides some variation (μεταβολή) in expression (ἐμῶν vs. ἐκείνῳ, πραγμάτων vs. πεπραγμένων), and variation is the rule in most of his antitheses. In this regard Antiphon stands somewhere between what Parry (1989: 177-94) sees as the bland assurance of Gorgias' neatly symmetrical antitheses and the struggle inherent in Thucydides' more complex style in which

<sup>70</sup> See Rusten (1989) 26-7; the standard work on variation is Ros (1938).

neat structures collapse and the human intellect (*logos, gnomē*) proves incapable of mastering reality (*ergon*). Antiphon's antitheses can express confidence in, say, the stepmother's role in the poisoning (1.15, cited above), but he frequently implies by variation that reality is not so neatly comprehended. The plaintiff in 3.3.10, for example, argues, ὁ μὲν παῖς εἰς αὐτὸν ἀμαρτῶν μᾶλλον ἢ κατὰ τὴν ἀμαρτίαν αὐτὸν τετιμώρηται, τέθνηκε γάρ, ὁ δὲ συλλήπτωρ καὶ κοινωνὸς εἰς τοὺς οὐ προσήκοντας τῆς ἀμαρτίας γενόμενος πῶς δίκαιος ἀζημίος ἀποφυγεῖν ἐστίν; ("the boy, who erred against himself, has punished himself more severely than his error, for he is dead, whereas he who was the accomplice and partner in the error against those who did not deserve it, how is it right that he should escape unpunished?"). Here the basic antithesis of boy and youth is assured, but while the former is simply named with three words describing his fault, the latter cannot be so easily comprehended; two descriptive nouns and seven more words are used to identify him and describe his fault (ὁ δὲ . . . γενόμενος); and whereas the boy's fate is summarized by one perfect verb supported by another perfect verb (τετιμώρηται, τέθνηκε γάρ), the youth's fate is urged in a rhetorical question implying hope rather than certainty, as in the previous statement. Antiphon's style thus implies a view of the world not so complex as Thucydides' but far from the (apparently) simple dichotomies of Gorgias.

(4) *False parallelism*. Antiphon sometimes seems to trick the reader (or listener) with a misleading parallelism. The speaker in 1.28 argues, for example, that criminals do not plan crimes in front of witnesses, ἀλλ' ὥς μάλιστα δύνανται λαθραιότατα καὶ ὥς ἀνθρώπων μηδένα εἰδέναι; despite appearances the two ὥς expressions are not parallel; the first ὥς strengthens a superlative whereas the second introduces a result clause (cf. 2.1.3).

#### vi. Other stylistic features

(1) *Pleonasm and repetition*. Antiphon often includes words, clauses or even paragraphs (to use a modern notion) that are redundant, repetitive or not strictly necessary, especially in the court speeches (e.g. 1.20 εὐθέως παραχρῆμα, 2.2.9 περιγενόμενος δὲ καὶ λειφθεῖς, etc.). Such redundancy is characteristic of most Greek styles, and of much oral speech to the present day; it is especially prominent in extemporaneous speech where



(like the poetic formula) it gives the speaker time to prepare his next point, but it became (and has remained) an accepted feature of persuasive speech on the theory that repetition produces acceptance, if not conviction. Repetition is supposed to be avoided in modern written prose, which may explain why scholars have sometimes wished to delete passages or otherwise alter Antiphon's text to avoid it (see notes on 1.7, 5.18, 6.51, etc.).

(2) *Doublets*. In two instances passages in two speeches are virtually identical (5.14 15 = 6.2, 5.87–9 = 6.3–6). Some editors (notably G) delete one of the passages in each pair, but there is no reason why an orator could not reuse material from one speech to the next. Even if a juror remembered hearing similar words at an earlier trial, he would probably be less likely to object than a modern reader.

(3) *Inconsistency and anacolouthon*. Small inconsistencies are common throughout Antiphon (and in many other authors), but the blatant inconsistency of e.g. 5.39 or 5.54 is surprising.<sup>71</sup> It is hard to imagine that Antiphon was unaware of this; perhaps he hoped to confuse the jurors. At another level, *anacolouthon* or syntactical inconsistency is a common rhetorical figure that seems intended to replicate extemporaneous speech (see below).

(4) *Hiatus*. Despite some evidence that Antiphon's use of hiatus (a word ending with a vowel followed by one beginning with a vowel) is purposeful (Pearson 1978: 136–8), he appears rather inconsistent in his attention to this. One of his doublets, for example, ends with a clause in which a minor change in word order results in avoidance of hiatus in one version but not the other (5.84 τὰ ἔργα ζητοῦσιν ἄπιστα vs. 6.47 ζητοῦσι τὰ ἔργα ἄπιστα).

### vii. *The Tetralogies and written communication*

This survey reveals that many features of Antiphon's language and style are shared by the Tetralogies and the court speeches. On the other hand, there are also a few striking differences in specific usage, such as the aorist of ἀπολογέομαι, for which the passive form ἀπελογήθην is always used in the Tetralogies (four times) vs. the middle ἀπελογησάμην in the court speeches (six times). Such differences have led some to ques-

<sup>71</sup> There are no apparent inconsistencies in the arguments of the Tetralogies.

tion the authenticity of the Tetralogies, but it is preferable to seek an explanation in the difference in purpose and occasion of these two “genres” (as we may legitimately call them), as well as the possibility that a decade or two may separate their composition (Introd. 3). Some of the stylistic differences noted above result from Antiphon’s tendency to push his experiments with language to greater extremes in the Tetralogies.<sup>72</sup> This tendency and other features found primarily or only in the Tetralogies seem to suggest that these were intended to be read and studied, in contrast to the court speeches, which were composed for a single oral presentation that would be judged immediately.<sup>73</sup> The greater syntactical complexity of the Tetralogies, with their fondness for periphrasis and the abundant use of participles, suggests a reading audience, and the same features are characteristic of the earliest prose that was certainly intended to be read, the *κτῆμα ἐς αἰεί* (“possession for all time”) of Antiphon’s reported pupil, Thucydides.<sup>74</sup> The court speeches, on the other hand, seem designed for easier comprehension in oral presentation: they exhibit a greater amount of *pleonasm* and repetition than the Tetralogies, the sentences are generally shorter, and even long sentences tend to be “strung out” (*κατεστραμμένη*, to use Aristotle’s terminology) rather than periodic.

That these differences are related to the difference between written communication and oral performance is only a hypothesis but an example may suggest avenues for exploration. Even a relatively short sentence in the Tetralogies may be intentionally complex, e.g. 3.2.9 ἀπολύει δὲ καὶ ὁ νόμος ἡμᾶς, ὧς πιστεύων, εἴργοντι μήτε ἀδίκως μήτε δικαίως ἀποκτείνειν, ὥς φονέα με διώκει (“the law also absolves us, relying on which – [the law] prohibiting unjustly or justly killing – he prosecutes me as a murderer”). 3.2.9 is admittedly one of the most complex sentences in the Tetralogies, but many others also appear unnecessarily complex; for example, 2.1.2 γινώσκοντας οὖν ὑμᾶς χρὴ ταῦτα, κἂν ὅτι οὖν εἰκὸς παραλάβητε, σφόδρα πιστεύειν αὐτῷ (“being aware of this,

<sup>72</sup> Cf. Solmsen (1975) esp. ch. 4 “Experiments with the Greek language.”

<sup>73</sup> The fact that Antiphon’s own defense speech was written down suggests that he wished it to be read long after he delivered it to the jurors, but this does not mean the speech was composed for publication; Antiphon must have been primarily concerned with its impact on the jurors.

<sup>74</sup> The influence of the Tetralogies may help explain why Thucydides’ speeches are more complex than his narrative; cf. Dover (1950) 57, n.3.

then, you must, even if you accept a point as [only] likely, have full confidence in it”), where simply moving *χρή* to follow the conditional clause would significantly ease comprehension.

By contrast, a long sentence in the court speeches is still relatively simple, e.g. 6.23 καὶ εἰπόν τε ταῦτα ἐν τῷ δικαστηρίῳ, καὶ προὔκαλούμην αὐτὸν εὐθύς τότε, καὶ αὖθις τῇ ὑστεραίᾳ ἐν τοῖς αὐτοῖς δικασταῖς, καὶ ἰέναι ἐκέλευον λαβόντα μάρτυρας ὁπόσους βούλοιο ἐπὶ τοὺς παραγενομένους, λέγων αὐτῷ ὀνόματι ἕκαστον, τούτους ἐρωτᾶν καὶ ἐλέγχειν, τοὺς μὲν ἐλευθέρους ὡς *χρή* τοὺς ἐλευθέρους, οἱ σφῶν ἔνεκα καὶ τοῦ δικαίου ἔφραζον ἂν τἀληθῆ καὶ τὰ γενόμενα, τοὺς δὲ δούλους, εἰ μὲν αὐτῷ ἐρωτῶντι τἀληθῆ δοκοῖεν λέγειν, εἰ δὲ μὴ, ἔτοιμος εἶην διδόναι βασανίζειν τοὺς τε ἑμαυτοῦ πάντας, καὶ εἴ τινας τῶν ἀλλοτρίων κελεύοι, ὡμολόγουν πείσας τὸν δεσπότην παραδῶσειν αὐτῷ βασανίζειν τρόπῳ ὁποῖω βούλοιο: “and I spoke these words in court and challenged him right then and again the next day before the same jurors and bid him go with witnesses, as many as he wished, to those who were present and I told him each one by name to question and examine the free men as one ought with free men, who for their own sake and for justice tell the truth and the facts, and the slaves, if they seemed to him to answer his questions truthfully, but if not, I was ready to give all my own (slaves) for interrogation under torture, and if he wanted any from other people, I agreed to persuade their master to hand them over for interrogation in whatever way he wished.”

Even an ancient Athenian would probably have difficulty deciphering the tangled syntax and word order of 3.2.9, if the sentence was simply read aloud to him; and this suggests that it was intended to be read and studied and (perhaps) admired for its artistry. In 6.23, however, the train of thought is evident and the sense is easily understood, despite the looseness of its syntax (which the translation tries to capture). Not only was it written for oral presentation, but it seems intended to reflect the lack of artistry found in most spontaneous conversation. This is in keeping with the advice given by Alcidas, about a generation later, that “people who write speeches for the law courts avoid great precision of expression and imitate instead the style of extemporaneous speakers; and their writing appears finest when they produce speeches least like those that are written.”<sup>75</sup> Alcidas’ entire essay presupposes that good

<sup>75</sup> *On the sophists* 13 (probably written c. 390).

writers shape their writing for a specific audience and occasion; surely we should not expect anything less from Antiphon.

## 9. TEXT

Although six MSS of Antiphon survive, four can be shown to be direct copies of other surviving MSS. The two with independent authority are *A*, a thirteenth-century MS now in the British Library, and *N*, written in the early fourteenth century and now at Oxford. Both were corrected by their own scribes (*A*<sup>1</sup>, *N*<sup>1</sup>) and then later by a different scribe (*A*<sup>2</sup>, *N*<sup>2</sup>). The two MSS are quite similar in their writing and their text; *A* was written in a monastery on Mt. Athos in northern Greece and *N* may have been too. The first printed text (the Aldine) appeared in 1513; the conventional numbering of sections within speeches is taken from the edition of Stephanus in 1575.

The text presented here is generally conservative, in that it resists the tendency of earlier editors to normalize Antiphon's language by emendation. In general, it is closest to Thalheim's for the court speeches, to Decleva Caizzi's for the *Tetralogies*. I have found the notes in Gernet, Maidment, Decleva Caizzi, Barigazzi and Edwards particularly useful. The apparatus notes only textual variants that significantly affect the sense and about which there is significant disagreement among modern editors (i.e. editors in the twentieth century, beginning with Thalheim). Thalheim (vii–viii) has a useful bibliography of scholarship on the text of Antiphon.

The text of the papyrus fragment of "On the revolution" (fr. 1a), published by Nicole in 1907, closely follows the most recent publication, Decleva Caizzi (1989) 226–8. Only supplements that are reasonably likely to convey the correct sense are printed; undisputed supplements are not marked; and no apparatus is included.

10. ABBREVIATIONS<sup>76</sup>

## 1. Editors, commentators, translators:

B	= Blass
Ba	= Barigazzi
DC	= Decleva Caizzi
E	= Edwards
F	= Ferrante
G	= Gernet
M	= Maidment
Mor	= Morrison
tB	= ten Berge
Th	= Thalheim

## 2. Grammars, etc.:

Gil	= Gildersleeve
MT	= Goodwin, <i>Syntax of the moods and tenses of the Greek verb</i>
GP	= Denniston, <i>The Greek particles</i>
KG	= Kühner Gerth
LSJ	= Liddell and Scott
S	= Smyth

References to Gil, S and *MT* designate section numbers; to *GP* and *KG* page numbers. Where possible, references are to Smyth, since it is likely to be more readily available to British and American students than Gil or *KG*.

## 3. Other abbreviations:

AP	= Aristotle (?), <i>Athenaiōn Politeia</i> .
DK	= Diels-Kranz
MH	= Gagarin, <i>The Murder of Herodes</i>
κτλ.	= καὶ τὰ λοιπά (= etc.)
ἄπ. λεγ.	= ἄπαξ λεγόμενα (a word found only once in extant Greek literature)

References to Plutarch are to the Loeb (not Teubner) sub-section numbers.

<sup>76</sup> For full details see the Bibliography.

ANTIPHON  
THE SPEECHES



## Ι. Κατὰ τῆς μητρὸς

Νέος μὲν καὶ ἄπειρος δικῶν ἔγωγε ἔτι, δεινῶς δὲ καὶ ἀπόρως 1  
ἔχει μοι περὶ τοῦ πράγματος, ὦ ἄνδρες, τοῦτο μὲν εἰ  
ἐπισκῆψαντος τοῦ πατρὸς ἐπεξελθεῖν τοῖς αὐτοῦ φονεῦσι μὴ  
ἐπέξειμι, τοῦτο δὲ εἰ ἐπεξιώντι ἀναγκαίως ἔχει οἷς ἥκιστα ἐχρῆν 2  
ἐν διαφορᾷ καταστῆναι, ἀδελφοῖς ὁμοπατρίοις καὶ μητρὶ  
ἀδελφῶν. ἡ γὰρ τύχη καὶ αὐτοῖ οὗτοι ἠνάγκασαν ἐμοὶ πρὸς 2  
τούτους αὐτοὺς τὸν ἀγῶνα καταστῆναι, οὓς εἰκὸς ἦν τῷ μὲν  
τεθνεῶτι τιμωροὺς γενέσθαι, τῷ δὲ ἐπεξιώντι βοηθούς. νῦν δὲ  
τούτων τάναντία γεγένηται· αὐτοὶ γὰρ οὗτοι καθεστᾶσιν  
ἀντίδικοι καὶ φονεῖς, ὥς καὶ ἐγὼ καὶ ἡ γραφὴ λέγει· δέομαι δ' 3  
ὕμῶν, ὦ ἄνδρες, ἐὰν ἀποδείξω ἐξ ἐπιβουλῆς καὶ πρόβουλῆς τὴν  
τούτων μητέρα φονέα οὔσαν τοῦ ἡμετέρου πατρὸς, καὶ μὴ  
ἅπαξ ἀλλὰ πολλάκις ἤδη ληφθεῖσαν τὸν θάνατον τὸν ἐκείνου  
ἐπ' αὐτοφώρῳ μηχανωμένην, τιμωρῆσαι πρῶτον μὲν τοῖς  
νόμοις τοῖς ὑμετέροις, οὓς παρὰ τῶν θεῶν καὶ τῶν προγόνων  
διαδεξάμενοι κατὰ τὸ αὐτὸ ἐκείνοις περὶ τῆς καταψηφίσεως  
δικάζετε, δεύτερον δ' ἐκείνῳ τῷ τεθνηκότι, καὶ ἅμα ἐμοὶ μόνῳ 4  
ἀπολελειμμένῳ βοηθῆσαι. ὑμεῖς γὰρ μοι ἀναγκαῖοι. οὓς γὰρ 4  
ἐχρῆν τῷ μὲν τεθνεῶτι τιμωροὺς γενέσθαι, ἐμοὶ δὲ βοηθούς,  
οὗτοι τοῦ μὲν τεθνεῶτος φονεῖς γεγένηνται, ἐμοὶ δ' ἀντίδικοι  
καθεστᾶσι. πρὸς τίνας οὖν ἔλθῃ τις βοηθούς, ἢ ποῖ τὴν  
καταφυγὴν ποιήσεται ἄλλοθι ἢ πρὸς ὑμᾶς καὶ τὸ δίκαιον;

θαυμάζω δ' ἔγωγε καὶ τοῦ ἀδελφοῦ, ἦντινὰ ποτε γνώμην 5  
ἔχων ἀντίδικος καθέστηκε πρὸς ἐμέ, καὶ εἰ νομίζει τοῦτο  
εὐσέβειαν εἶναι, τὸ τὴν μητέρα μὴ προδοῦναι. ἐγὼ δ' ἡγοῦμαι  
πολὺ ἀνοσιώτερον εἶναι ἀφεῖναι τοῦ τεθνεῶτος τὴν τιμωρίαν,  
ἄλλως τε καὶ τοῦ μὲν ἐκ προβουλῆς ἀκουσίως ἀποθανόντος,  
τῆς δὲ ἐκουσίως ἐκ προνοίας ἀποκτεινάσης. καὶ πῶς τοῦτό γ' 6  
ἐρεῖ, ὥς εὖ οἶδεν ὅτι γ' οὐκ ἀπέκτεινεν ἡ μήτηρ αὐτοῦ τὸν  
πατέρα τὸν ἡμέτερον; ἐν οἷς μὲν γὰρ αὐτῷ ἐξουσία ἦν σαφῶς  
εἰδέναι, παρὰ τῆς βασάνου, οὐκ ἠθέλησεν· ἐν οἷς δ' οὐκ ἦν  
πυθέσθαι, τοῦτο αὐτὸ προύθυμήθη. καίτοι αὐτὸ τοῦτο ἐχρῆν, ὃ

1.6 καὶ πῶς Cole: καὶ οὐ AN: καίτοι Thalheim



καὶ ἐγὼ προῦκαλούμην, προθυμηθῆναι, ὅπως τὸ πραχθὲν ἦι  
7 ἀληθὲς ἐπεξελθεῖν. μὴ γὰρ ὁμολογούντων τῶν ἀνδραπόδων  
οὗτός τ' εἰδῶς ἂν ἀπελογεῖτο καὶ ἀντέσπευδε πρὸς ἐμέ, καὶ ἡ  
μήτηρ αὐτοῦ ἀπήλλακτο ἂν ταύτης τῆς αἰτίας. ὅπου δὲ μὴ  
ἠθέλησεν ἔλεγχον ποιήσασθαι τῶν πεπραγμένων, πῶς περί γ'  
ὧν οὐκ ἠθέλησε πυθέσθαι, ἐγχαρεῖ αὐτῶι περὶ τούτων εἰδέναι;  
8 πῶς οὖν περὶ τούτων, ὧ δικάζοντες, αὐτὸν εἰκὸς εἰδέναι, ὧν γε  
τὴν ἀλήθειαν οὐκ εἴληφε; τί ποτε ἀπολογήσεσθαι μέλλει μοι; ἐκ  
μὲν γὰρ τῆς τῶν ἀνδραπόδων βασάνου εὖ ἤιδει ὅτι οὐχ οἶόν τ'  
ἦν αὐτῇ σωθῆναι, ἐν δὲ τῶι μὴ βασανισθῆναι ἡγεῖτο τὴν  
σωτηρίαν εἶναι· τὰ γὰρ γενόμενα ἐν τούτῳ ἀφανισθῆναι  
ὠήθησαν. πᾶς οὖν εὖ ορκα ἀντομωμοκῶς ἔσται φάσκων εὖ  
εἰδέναι, ὅς οὐκ ἠθέλησε σαφῶς πυθέσθαι ἐμοῦ ἐθέλοντος τῇ  
δικαιοτάτῃ βασάνῳ χρήσασθαι περὶ τούτου τοῦ πράγματος;  
9 τοῦτο μὲν γὰρ ἠθέλησα μὲν τὰ τούτων ἀνδράποδα βασανίσαι,  
ἃ συνήδει καὶ πρότερον τὴν γυναῖκα ταύτην, μητέρα δὲ  
τούτων, τῶι πατρὶ τῶι ἡμετέρῳι θάνατον μηχανωμένην  
φαρμάκοις, καὶ τὸν πατέρα εἰληφότα ἐπ' αὐτροφώρῳι, ταύτην  
τε οὐκ οὔσαν ἄπαρνον, πλὴν οὐκ ἐπὶ θανάτῳ φάσκουσαν  
10 διδόναι ἀλλ' ἐπὶ φίλτροις. διὰ οὖν ταῦτα ἐγὼ βάσανον  
τοιαύτην ἠθέλησα ποιήσασθαι περὶ αὐτῶν, γράψας ἐν  
γραμματείῳ ἃ ἐπαιτιῶμαι τὴν γυναῖκα ταύτην, βασανιστάς  
τε αὐτοὺς τούτους ἐκέλευον γίνεσθαι ἐμοῦ παρόντος, ἵνα μὴ  
ἀναγκαζόμενοι ἃ ἐγὼ ἐπερωτώειν λέγοιεν, ἀλλ' ἐξήρκει μοι  
τοῖς ἐν τῶι γραμματείῳ χρῆσθαι· καὶ αὐτό μοι τοῦτο  
τεκμήριον δίκαιον γενέσθαι, ὅτι ὀρθῶς καὶ δικαίως μετέρχομαι  
τὸν φονέα τοῦ πατρός· εἰ δὲ ἄπαρνοι γίγνοιτο ἢ λέγοιεν μὴ  
ὁμολογούμενα, <ἢ βάσανος> ἀναγκάζοι τὰ γεγονότα  
κατηγορεῖν· αὕτη γὰρ καὶ τοὺς τὰ ψευδῇ παρεσκευασμένους  
11 λέγειν τάληθῇ κατηγορεῖν ποιήσει. καίτοι εὖ οἶδά γ', εἰ οὔτοι  
πρὸς ἐμὲ ἐλθόντες, ἐπειδὴ τάχιστα αὐτοῖς ἀπηγγέλθη ὅτι  
ἐπεξίοιμι τοῦ πατρὸς τὸν φονέα, ἠθέλησαν τὰ ἀνδράποδα ἃ ἦν  
αὐτοῖς παραδοῖναι, ἐγὼ δὲ μὴ ἠθέλησα παραλαβεῖν, αὐτὰ ἂν

ταῦτα μέγιστα τεκμήρια παρείχοντο ὥς οὐκ ἔνοχοί εἰσι τῷ  
 φόνῳ. νῦν δ', ἐγὼ γάρ εἰμι τοῦτο μὲν ὃ θέλων αὐτὸς  
 βασανιστῆς γενέσθαι, τοῦτο δὲ τούτους αὐτοὺς κελεύων  
 βασανίσαι ἀντ' ἐμοῦ, ἐμοὶ δὴπου εἰκὸς ταῦτά ταῦτα τεκμήρια  
 εἶναι ὥς εἰσὶν ἔνοχοι τῷ φόνῳ. εἰ γὰρ τούτων θελόντων  
 12 διδόναι εἰς βάσανον ἐγὼ μὴ ἐδεξάμην, τούτοις ἂν ἦν ταῦτα  
 τεκμήρια. τὸ αὐτὸ οὖν τοῦτο καὶ ἐμοὶ γενέσθω, εἴπερ ἐμοῦ  
 θέλοντος ἔλεγχον λαβεῖν τοῦ πράγματος αὐτοὶ μὴ ἠθέλησαν  
 δοῦναι. δεινὸν δ' ἔμοιγε δοκεῖ εἶναι, εἰ ὑμᾶς μὲν ζητοῦσιν  
 αἰτεῖσθαι ὅπως αὐτῶν μὴ καταψηφίσησθε, αὐτοὶ δὲ σφίσιν  
 αὐτοῖς οὐκ ἠξίωσαν δικασταὶ γενέσθαι δόντες βασανίσαι τὰ  
 αὐτῶν ἀνδράποδα. περὶ μὲν οὖν τούτων οὐκ ἄδηλον ὅτι αὐτοὶ  
 13 ἔφευγον τῶν πραχθέντων τὴν σαφήνειαν πυθέσθαι· ἥιδεσαν  
 γὰρ οἰκεῖον σφίσι τὸ κακὸν ἀναφανησόμενον, ὥστε  
 σιωπώμενον καὶ ἀβασάνιστον αὐτὸ ἑᾶσαι ἐβουλήθησαν. ἀλλ'  
 οὐχ ὑμεῖς γε, ὦ ἄνδρες, ἔγωγ' εὖ οἶδα, ἀλλὰ σαφὲς ποιήσετε.  
 ταῦτα μὲν οὖν μέχρι τούτου· περὶ δὲ τῶν γενομένων  
 πειράσομαι ὑμῖν διηγῆσασθαι τὴν ἀλήθειαν· δίκη δὲ  
 κυβερνήσειεν.

ὑπερῳίον τι ἦν τῆς ἡμετέρας οἰκίας, ὃ εἶχε Φιλόνεως ὁπότ' ἐν  
 14 ἄστει διατρίβοι, ἀνὴρ καλὸς τε καὶ ἀγαθὸς καὶ φίλος τῷ  
 ἡμέτέρῳ πατρί· καὶ ἦν αὐτῷ παλλακὴ, ἣν ὁ Φιλόνεως ἐπὶ  
 πορνεῖον ἔμελλε καταστῆσαι. ταύτην οὖν πυθομένη ἢ μήτηρ  
 τοῦ ἀδελφοῦ ἐποίησατο φίλην. αἰσθομένη δ' ὅτι ἀδικεῖσθαι  
 15 ἔμελλεν ὑπὸ τοῦ Φιλόνεω μεταπέμπεται, καὶ ἐπειδὴ ἤλθεν,  
 ἔλεξεν αὐτῇ ὅτι καὶ αὐτὴ ἀδικοῖτο ὑπὸ τοῦ πατρὸς τοῦ  
 ἡμέτερου· εἰ οὖν ἐθέλει πείθεσθαι, ἔφη ἱκανὴ εἶναι ἐκείνῃ τε τὸν  
 Φιλόνεων φίλον ποιῆσαι καὶ αὐτῇ τὸν ἐμὸν πατέρα, εἶναι  
 φάσκουσα αὐτῆς μὲν τοῦτο εὕρημα, ἐκείνης δ' ὑπηρέτημα.  
 ἡρώτα οὖν αὐτὴν εἰ ἐθελήσει διακονῆσαί οἱ, καὶ ἡ ὑπέσχετο,  
 16 τάχιστα ὥς οἶμαι. μετὰ ταῦτα ἔτυχε τῷ Φιλόνεω ἐν Πειραιεῖ  
 ὄντα ἱερὰ Διὶ Κτησίῳ, ὃ δὲ πατὴρ ὁ ἐμὸς εἰς Νάξον πλεῖν  
 ἔμελλεν. κάλλιστον οὖν ἐδόκει εἶναι τῷ Φιλόνεω τῆς αὐτῆς  
 ὁδοῦ ἅμα μὲν προπέμψαι εἰς τὸν Πειραιᾶ τὸν πατέρα τὸν ἐμὸν  
 φίλον ὄντα ἑαυτῷ, ἅμα δὲ θύσαντα τὰ ἱερὰ ἐστιᾶσαι ἐκεῖνον.

- 17 ἡ οὖν παλλακὴ τοῦ Φιλόνεω ἠκολούθει τῆς θυσίας ἔνεκεν. καὶ ἐπειδὴ ἦσαν ἐν τῷ Πειραιεῖ, οἷον εἰκός, ἔθυνεν. καὶ ἐπειδὴ αὐτῷ ἐτέθυτο τὰ ἱερά, ἐντεῦθεν ἐβουλευέτο ἡ ἄνθρωπος ὅπως ἂν αὐτοῖς τὸ φάρμακον δοίη, πότερα πρὸ δεῖπνου ἢ ἀπὸ δεῖπνου. ἔδοξεν οὖν αὐτῇ βουλευομένῃ βέλτιον εἶναι μετὰ δεῖπνον δοῦναι, ταῖς Κλυταιμῆστρας τῆς τούτου μητρὸς ὑποθήκαις ἅμα
- 18 διακονοῦσαν. καὶ τὰ μὲν ἄλλα μακρότερος ἂν εἴη λόγος περὶ τοῦ δεῖπνου ἐμοί τε διηγῆσασθαι ὑμῖν τ' ἀκοῦσαι· ἀλλὰ πειράσομαι τὰ λοιπὰ ὥς ἐν βραχυτάτοις ὑμῖν διηγῆσασθαι, ὥς γεγένηται ἡ δόσις τοῦ φαρμάκου. ἐπειδὴ γὰρ ἐδεδειπνῆκεσαν, οἷον εἰκός, ὁ μὲν θύων Διὶ Κτησίῳ κακῆκινον ὑποδεχόμενος, ὁ δ' ἐκπλεῖν τε μέλλων καὶ παρ' ἀνδρὶ ἐταίρῳ αὐτοῦ δειπνῶν, σπονδὰς τε ἐποιοῦντο καὶ λιβανωτὸν ὑπὲρ αὐτῶν ἐπετίθεσαν.
- 19 ἡ δὲ παλλακὴ τοῦ Φιλόνεω τὴν σπονδὴν ἅμα ἐγχεύουσα ἐκείνοις εὐχομένοισι ἃ οὐκ ἔμελλε τελεῖσθαι, ὧ ἄνδρες, ἐνέχει τὸ φάρμακον. καὶ ἅμα οἰομένη δεξιὸν ποιεῖν πλέον δίδωσι τῷ Φιλόνεω, ὥς εἰ δοίη πλέον, μᾶλλον φιλησομένη ὑπὸ τοῦ Φιλόνεω· οὐπω γὰρ ἤιδει ὑπὸ τῆς μητρυιᾶς τῆς ἐμῆς ἐξαπατωμένη, πρὶν ἐν τῷ κακῷ ἤδη ἦν· τῷ δὲ πατρὶ τῷ
- 20 ἡμετέρῳ ἔλασσον ἐνέχει. καὶ ἐκεῖνοι ἐπειδὴ ἀπέσπεισαν, τὸν ἑαυτῶν φονέα μεταχειριζόμενοι ἐκπίνουσιν ὑστάτην πόσιν. ὁ μὲν οὖν Φιλόνεως εὐθέως παραχρῆμα ἀποθνήσκει, ὁ δὲ πατὴρ ὁ ἡμέτερος εἰς νόσον ἐμπίπτει, ἐξ ἧς καὶ ἀπώλετο εἰκοσταῖος. ἀνθ' ὧν ἡ μὲν διακονήσασα ἔχει τὰ ἐπίχειρα ὧν ἀξία ἦν, οὐδὲν αἰτία οὔσα – τῷ γὰρ δημοκοίνῳ τροχισθεῖσα παρεδόθη· ἡ δ' αἰτία τε ἤδη καὶ ἐνθυμηθεῖσα καὶ χειρουργήσασα ἔξει, ἐὰν ὑμεῖς τε καὶ οἱ θεοὶ θέλωσιν.
- 21 σκέψασθε οὖν ὅσωι δικαιότερα ὑμῶν δεήσομαι ἐγὼ ἢ ὁ ἀδελφός. ἐγὼ μὲν γε τῷ τεθνεῶτι ὑμᾶς κελεύω καὶ τῷ ἡδικομένῳ τὸν ἀίδιον χρόνον τιμωροὺς γενέσθαι· οὗτος δὲ τοῦ μὲν τεθνεῶτος περὶ οὐδὲν ὑμᾶς αἰτήσεται, ὅς ἄξιός καὶ ἐλέου καὶ βοηθείας καὶ τιμωρίας παρ' ὑμῶν τυχεῖν, ἀθέως καὶ ἀκλεῶς πρὸ τῆς εἰμαρμένης ὑφ' ὧν ἤκιστα ἐχρῆν τὸν βίον ἐκλιπῶν.

ὑπὲρ δὲ τῆς ἀποκτεινάσης δεήσεται ἀθέμιτα καὶ ἀνόσια καὶ 22  
 ἀτέλεστα καὶ ἀνήκουστα καὶ θεοῖς καὶ ὑμῖν, δεόμενος ὑμῶν «μὴ  
 τιμωρῆσαι» ἃ αὐτὴ ἐαυτὴν οὐκ ἔπεισε μὴ κακοτεχνῆσαι. ὑμεῖς δ'  
 οὐ τῶν ἀποκτεινάντων ἐστὲ βοηθοί, ἀλλὰ τῶν ἐκ προνοίας  
 ἀποθνήσκοντων, καὶ ταῦτα ὑφ' ὧν ἤκιστα αὐτοὺς ἐχρῆν  
 ἀποθνήσκειν. ἤδη οὖν ἐν ὑμῖν ἐστὶ τοῦτ' ὀρθῶς διαγινῶναι, ὃ  
 καὶ ποιήσατε. δεήσεται δ' ὑμῶν οὗτος μὲν ὑπὲρ μητρὸς τῆς 23  
 αὐτοῦ ζώσης, τῆς ἐκεῖνον διαχρησαμένης ἀβούλως τε καὶ  
 ἀθέως, ὅπως δίκην μὴ δῶι, ἂν ὑμᾶς πείθῃ, ὧν ἡδίκηκε· ἐγὼ δ'  
 ὑμᾶς ὑπὲρ τοῦ πατρός μου τεθνεῶτος αἰτοῦμαι, ὅπως παντὶ  
 τρόπῳ δῶι. ὑμεῖς δέ, ὅπως διδῶσι δίκην οἱ ἀδικοῦντες, τούτου  
 γε ἕνεκα καὶ δικασταὶ ἐγένεσθε καὶ ἐκλήθητε. καὶ ἐγὼ μὲν 24  
 ἐπεξέρχομαι λέγων, ἵνα δῶι δίκην ὧν ἡδίκηκε καὶ τιμωρήσω  
 τῷ τε πατρὶ τῷ ἡμετέρῳ καὶ τοῖς νόμοις τοῖς ὑμετέροις·  
 ταύτη καὶ ἄξιόν μοι βοηθῆσαι ὑμᾶς ἅπαντας, εἰ ἀληθῆ λέγω·  
 οὗτος δὲ τὰναντία, ὅπως ἢ τοὺς νόμους παριδοῦσα μὴ δῶι  
 δίκην ὧν ἡδίκηκε, ταύτη βοηθὸς καθέστηκε. καίτοι πότερον 25  
 δικαιότερον τὸν ἐκ προνοίας ἀποκτείναντα δοῦναι δίκην ἢ μὴ;  
 καὶ πότερον δεῖ οἰκτῖραι μᾶλλον τὸν τεθνεῶτα ἢ τὴν  
 ἀποκτείνασαν; ἐγὼ μὲν οἶμαι τὸν τεθνεῶτα· καὶ γὰρ  
 δικαιότερον καὶ ὀσιώτερον καὶ πρὸς θεῶν καὶ πρὸς ἀνθρώπων  
 γίγνοιτο ὑμῖν. ἤδη οὖν ἐγὼ ἀξιῶ, ὥσπερ κἀκεῖνον  
 ἀνελεημόνως καὶ ἀνοικτίστως αὕτη ἀπώλεσεν, οὕτω καὶ  
 αὐτὴν ταύτην ἀπολέσθαι ὑπὸ τε ὑμῶν καὶ τοῦ δικαίου. ἢ μὲν 26  
 ἐκουσίως καὶ βουλευσασα τὸν θάνατον «ἀπέκτεινεν», ὃ δ'  
 ἀκουσίως καὶ βιαίως ἀπέθανε. πῶς γὰρ οὐ βιαίως ἀπέθανεν, ὧ  
 ἄνδρες, ὅς γ' ἐκπλεῖν ἔμελλεν ἐκ τῆς γῆς τῆσδε, παρὰ τε ἀνδρὶ  
 φίλῳ αὐτοῦ εἰστιᾶτο; ἢ δὲ πέμψασα τὸ φάρμακον καὶ  
 κελεύσασα ἐκείνῳ δοῦναι πιεῖν ἀπέκτεινεν ἡμῶν τὸν πατέρα.  
 πῶς οὖν ταύτην ἐλεεῖν ἄξιόν ἐστίν ἢ αἰδοῦς τυγχάνειν παρ'  
 ὑμῶν ἢ ἄλλου του, ἥτις αὐτὴ οὐκ ἠξίωσεν ἐλεῆσαι τὸν ἐαυτῆς  
 ἄνδρα, ἀλλ' ἀνοσίως καὶ αἰσχροῶς ἀπώλεσεν; οὕτω δέ τοι καὶ 27

1.22 μὴ τιμωρῆσαι add. Thalheim

1.26 ἀπέκτεινεν add. Reiske

ἐλεεῖν ἐπὶ τοῖς ἀκουσίοις παθήμασι μᾶλλον προσήκει ἢ τοῖς  
 ἐκουσίοις καὶ ἐκ προνοίας ἀδικήμασι καὶ ἁμαρτήμασι. καὶ  
 ὥσπερ ἐκεῖνον αὕτη οὔτε θεοὺς οὔθ' ἥρωας οὔτ' ἀνθρώπους  
 αἰσχυνθεῖσα οὐδὲ δείσας' ἀπώλεσεν, οὕτω καὶ αὐτὴ ὑφ' ὑμῶν  
 καὶ τοῦ δικαίου ἀπολομένη, καὶ μὴ τυχοῦσα μήτ' αἰδοῦς μήτ'  
 ἐλέου μήτ' αἰσχύνης μηδεμιᾶς παρ' ὑμῶν, τῆς δικαιοτάτης ἂν  
 28 τύχοι τιμωρίας. θαυμάζω δὲ ἔγωγε τῆς τόλμης τοῦ ἀδελφοῦ  
 καὶ τῆς διανοίας, τὸ διομόσασθαι ὑπὲρ τῆς μητρὸς εὖ εἰδέναι μὴ  
 πεποιηκυῖαν ταῦτα. πῶς γὰρ ἂν τις εὖ εἰδείη οἷς μὴ παρεγένετο  
 αὐτός; οὐ γὰρ δήπου μαρτύρων γ' ἐναντίον οἱ ἐπιβουλεύοντες  
 τοὺς θανάτους τοῖς πέλας μηχανῶνται τε καὶ  
 παρασκευάζουσιν, ἀλλ' ὥς μάλιστα δύνανται λαθραιότατα  
 29 καὶ ὥς ἀνθρώπων μηδένα εἰδέναι· οἱ δὲ ἐπιβουλευόμενοι οὐδὲν  
 ἴσασι, πρὶν γ' ἤδη ἐν αὐτῷ ὥσι τῷ κακῷ καὶ γιγνώσκωσι τὸν  
 ὄλεθρον ἐν ᾧ εἰσὶ. τότε δέ, ἐὰν μὲν δύνωνται καὶ φθάνωσι πρὶν  
 ἀποθανεῖν, καὶ φίλους καὶ ἀναγκαίους τοὺς σφετέρους καλοῦσι  
 καὶ μαρτύρονται καὶ λέγουσιν αὐτοῖς ὑφ' ᾧ ἀπόλλυνται καὶ  
 30 ἐπισκῆπτουσι τιμωρῆσαι σφίσιν αὐτοῖς ἡδίκημένοις, ἃ κάμοι  
 παιδί ὄντι ὁ πατήρ, τὴν ἀθλίαν καὶ τελευταίαν νόσον νοσῶν,  
 ἐπέσκηπτεν· ἐὰν δὲ τούτων ἁμαρτάνωσι, γράμματα  
 γράφουσι, καὶ οἰκέτας τοὺς σφετέρους αὐτῶν ἐπικαλοῦνται  
 μάρτυρας, καὶ δηλοῦσιν ὑφ' ᾧ ἀπόλλυνται. κακεῖνος ἐμοὶ νέωι  
 ἔτι ὄντι ταῦτα ἐδήλωσε καὶ ἐπέστειλεν, ᾧ ἄνδρες, οὐ τοῖς  
 31 ἑαυτοῦ δούλοις. ἐμοὶ μὲν οὖν διήγεται καὶ βεβοήθηται τῷ  
 τεθνεῶτι καὶ τῷ νόμῳ· ἐν ὑμῖν δ' ἐστὶ σκοπεῖν τὰ λοιπὰ πρὸς  
 ὑμᾶς αὐτοὺς καὶ δικάζειν τὰ δίκαια. οἶμαι δὲ καὶ τοῖς θεοῖς τοῖς  
 κάτω μέλειν οἱ ἡδίκηνται.

## 2. Τετραλογία Α

### 2.1

1 Ὅποσα μὲν τῶν πραγμάτων ὑπὸ τῶν ἐπιτυχόντων  
 ἐπιβουλεύεται, οὐ χαλεπὰ ἐλέγχεσθαι ἐστίν· ἂν δ' οἱ ἱκανῶς μὲν  
 πεφυκότες, ἔμπειροι δὲ πραγμάτων ὄντες, ἐν δὲ τούτῳ τῆς

ἡλικίας καθεστῶτες ἐν ᾧ κράτιστοι φρονεῖν αὐτῶν εἰσι, 2  
 πράττωσι, χαλεποὶ καὶ γνωσθῆναι καὶ δειχθῆναί εἰσι. διὰ γὰρ  
 τὸ μέγεθος τοῦ κινδύνου ἐκ πολλοῦ τὴν ἀσφάλειαν ὧν  
 ἐπιβουλεύουσι σκοποῦντες, οὐ πρότερον ἐπιχειροῦσιν ἢ πάσης  
 ὑποψίας φυλακὴν ποιήσωνται. γινώσκοντας οὖν ὑμᾶς χρή 3  
 ταῦτα, κἂν ὅτιοῦν εἰκὸς παραλάβητε, σφόδρα πιστεύειν αὐτῶι.  
 ἡμεῖς δ' οἱ ἐπεξερχόμενοι τὸν φόνον οὐ τὸν αἴτιον ἀφέντες τὸν  
 ἀναίτιον διώκομεν· σαφῶς γὰρ οἶδαμεν ὅτι πάσης τῆς πόλεως 3  
 μαινομένης ὑπ' αὐτοῦ, ἕως ἂν διωχθῇ, τό τ' ἀσέβημα ἡμέτερον  
 γίγνεται, τῆς θ' ὑμετέρας ἀμαρτίας ἢ ποινῇ εἰς ἡμᾶς τοὺς μὴ  
 δικαίως διώκοντας ἀναχωρεῖ. ἅπαντος δὲ τοῦ μιάσματος  
 ἀναχωροῦντος εἰς ἡμᾶς, ὥς ἂν δυνώμεθα σαφέστατα ἐξ ὧν  
 γινώσκουμεν πειρασόμεθα ὑμῖν δηλοῦν ὥς ἀπέκτεινε τὸν  
 ἄνδρα.

(οὔτε γὰρ κακούργους εἰκὸς ἀποκτεῖναι τὸν ἄνδρα· οὐδεὶς 4  
 γὰρ ἂν τὸν ἔσχατον κίνδυνον περὶ τῆς ψυχῆς κινδυνεύων  
 ἐτοίμην καὶ κατειργασμένην τὴν ὠφέλειαν ἀφῆκεν· ἔχοντες γὰρ  
 [ἂν] τὰ ἱμάτια ἠύρεθσαν. οὐ μὴν οὐδὲ παροινήσας οὐδεὶς  
 διέφθειρεν αὐτόν· ἐγινώσκετο γὰρ ἂν ὑπὸ τῶν συμποτῶν.  
 οὐδὲ μὴν οὐδ' ἐκ λοιδορίας· οὐ γὰρ ἄωρι τῶν νυκτῶν οὐδ' ἐν  
 ἐρημίαι ἐλοιδороῦντο. οὐδὲ μὴν ἄλλου στοχαζόμενος ἔτυχε  
 τούτου· οὐ γὰρ ἂν σὺν τῷ ἀκολουθῶι διέφθειρεν αὐτόν.  
 ἀπολυομένης δὲ τῆς ὑποψίας ἀπάσης αὐτὸς ὁ θάνατος ἐξ 5  
 ἐπιβουλῆς ἀποθανόντα μηνύει αὐτόν. ἐπιθέσθαι δὲ τίνα μᾶλλον  
 εἰκὸς ἐστίν ἢ τὸν μέγала μὲν κακὰ προπεπονθότα, ἔτι δὲ  
 μείζονα ἐπίδοξον ὄντα πάσχειν; ἔστι δ' ὁ διωκόμενος οὗτος· ἐκ  
 παλαιοῦ γὰρ ἐχθρὸς ὧν αὐτοῦ πολλὰς μὲν καὶ μεγάλας  
 γραφὰς διώξας οὐδεμίαν εἴλεν, ἔτι δὲ μείζους καὶ πλείους 6  
 διωχθεὶς οὐδεπώποτ' ἀποφυγῶν ἱκανὸν μέρος τῶν ὄντων  
 ἀποβέβληκε, τὰ δ' ἄγχιστα ἱερῶν κλοπῆς δυοῖν ταλάντοις  
 γεγραμμένος ὑπ' αὐτοῦ, συνειδὼς μὲν αὐτῶι τὸ ἀδίκημα,  
 ἔμπειρος δ' ὧν τῆς τούτου δυνάμεως, μνησικακῶν δὲ τῶν

ἔμπροσθεν, εἰκότως μὲν ἐπεβούλευσεν, εἰκότως δ' ἀμυνόμενος  
 7 τὴν ἔχθραν ἀπέκτεινε τὸν ἄνδρα. ἢ τε γὰρ ἐπιθυμία τῆς  
 τιμωρίας ἀμνήμονα τῶν κινδύνων καθίστη αὐτόν, ὃ τε φόβος  
 τῶν ἐπιφερομένων κακῶν ἐκπλήσσων θερμότερον ἐπιχειρεῖν  
 ἐπῆιρε. ἤλπιζέ τε τάδε μὲν δράσας καὶ λήσειν ἀποκτείνας αὐτόν  
 καὶ ἀποφεύξεσθαι τὴν γραφήν· οὐδὲ γὰρ ἐπεξιέναι οὐδένα, ἀλλ'  
 8 ἐρήμην αὐτὴν ἔσεσθαι· εἴ τε καὶ ἀλοίη, τιμωρησαμένῳ κάλλιον  
 ἔδοξεν αὐτῷ ταῦτα πάσχειν, ἢ ἀνάνδρως μὴδὲν  
 ἀντιδράσαντα ὑπὸ τῆς γραφῆς διαφθαρῆναι· σαφῶς δ' ἥδει  
 ἀλωσόμενος αὐτήν· οὐ γὰρ ἂν τόνδε τὸν ἀγῶνα ἐνόμισεν  
 9 ἀσφαλέστερον εἶναι. τὰ μὲν βιασάμενα ταῦτά ἐστιν ἀσεβῆσαι  
 αὐτόν. μάρτυρες δ' εἰ μὲν πολλοὶ παρεγένοντο, πολλοὺς ἂν  
 παρεσχόμεθα· ἐνὸς δὲ τοῦ ἀκολουθίου παραγενομένου, οἱ  
 τούτου ἤκουον μαρτυρήσουσιν· ἔμπρους γὰρ ἔτι ἀρθείς,  
 ἀνακρινόμενος ὑφ' ἡμῶν, τοῦτον μόνον ἔφη τῶν παιόντων  
 γνῶναι αὐτούς.

ἐξελεγχόμενος δ' ὑπὸ τε τῶν εἰκότων ὑπὸ τε τῶν  
 παραγενομένων, οὐδενὶ τρόπῳ οὔτε ἰδικαίως οὔτε  
 10 συμφερόντως ἀπολύοιτ' ἂν ὑφ' ὑμῶν. οἵ τε γὰρ ἐπιβουλεύοντες  
 ἀνεξέλεγκτοι ἂν εἶψαν, εἰ μήτε ὑπὸ τῶν παραγενομένων μήτε  
 ὑπὸ τῶν εἰκότων ἐξελέγχονται· ἀσύμφορόν θ' ὑμῖν ἐστι τόνδε  
 μιὰρὸν καὶ ἀναγνον ὄντα εἶς <τε> τὰ τεμένη τῶν θεῶν εἰσιόντα  
 μιαίνειν τὴν ἀγνείαν αὐτῶν, ἐπὶ τε τὰς αὐτὰς τραπέζας ἰόντα  
 συγκαταπιμπλάναι τοὺς ἀναιτίους· ἐκ γὰρ τούτων αἱ τ'  
 11 ἀφορίαι γίνονται δυστυχεῖς θ' αἱ πράξεις καθίστανται. οἰκείαν  
 οὖν χρή τὴν τιμωρίαν ἡγήσαμένους, αὐτῷ τούτῳ τὰ τούτου  
 ἀσεβήματα ἀναθέντας, ἰδίαν μὲν τὴν συμφοράν, καθαρὰν δὲ τὴν  
 πόλιν καταστήσαι.

## 2.2

1 Οὐ μοι δοκῶ ἀμαρτάνειν ἀτυχέστατον ἐμαυτὸν ἡγούμενος  
 εἶναι τῶν πάντων ἀνθρώπων. τῶν μὲν γὰρ ἄλλων οἱ

2.1.9 παιόντων Bekker: παρόντων A: γνῶναι τῶν παρόντων N

2.1.10 τε add. Blass

δυστυχοῦντες, ὁπότεν μὲν ὑπὸ χειμῶνος πονῶσιν, εὐδίας  
γενομένης παύονται· ὅταν δὲ νοσήσωσιν, ὑγιεῖς γενόμενοι  
σῴζονται· ἐάν τέ τις ἄλλη συμφορὰ καταλαμβάνῃ αὐτούς, τὰ  
ἐναντία ἐπιγιγνόμενα ὀνίνησιν. ἐμοὶ δὲ ζῶν τε ἄνθρωπος 2  
ἀνατροπεὺς τοῦ οἴκου ἐγένετο, ἀποθανὼν τε, κἂν ἀποφύγω,  
ἱκανὰς λύπας καὶ φροντίδας προσβέβληκεν. εἰς τοῦτο γὰρ  
βαρυδαιμονίας ἦκω, ὥστε οὐκ ἄρκοῦν μοι ἐστὶν ἐμαυτὸν ὅσιον  
καὶ δίκαιον παρέχοντα μὴ διαφθαρῆναι, ἀλλὰ κἂν μὴ τὸν  
ἀποκτείναντα εὐρὼν ἐξελέγξω, ὃν οἱ τιμωροῦντες αὐτῷ  
ἀδύνατοι εὐρεῖν εἰσιν, αὐτὸς καταδοχθεὶς φονεὺς εἶναι ἀνοσίως  
ἀλώσομαι. καὶ ἐμὲ ὥς δεινὸν μὲν παγχάλεπόν φασιν ἐλέγχεσθαι 3  
εἶναι, ὥς δ' ἡλίθιον ἐξ αὐτῶν ὧν ἔπραξα φανερόν εἶναι  
ἐργασάμενον τὸ ἔργον. εἰ γὰρ νῦν διὰ τῆς ἔχθρας τὸ μέγεθος  
εἰκότως ὑφ' ὑμῶν καταδοκοῦμαι, πρὶν ἐργάσασθαι εἰκότερον  
ἦν προειδότα τὴν νῦν ὑποψίαν εἰς ἐμὲ οὔσαν καὶ τῶν ἄλλων εἶ  
τινα ἔγνω ἐπιβουλεύοντα αὐτῷ, διακωλύειν μᾶλλον ἢ αὐτὸν  
ἐργασάμενον εἰς ἐκουσίους καὶ προδήλους ὑποψίας ἐμπεσεῖν· ἔκ  
τε γὰρ αὐτοῦ τοῦ ἔργου φανερὸς γενόμενος ἀπωλλύμην,  
λαθὼν τε σαφῶς ἤϊδη τήνδε τὴν ὑποψίαν εἰς ἐμὲ οὔσαν. ἄθλια  
μὲν οὖν πάσχω μὴ ἀπολογεῖσθαι μόνον βιαζόμενος, ἀλλὰ καὶ 4  
τοὺς ἀποκτείναντας φανεροὺς καταστῆσαι· ὅμως δὲ καὶ τοῦτο  
ἐπιχειρητέον· οὐδὲν γὰρ πικρότερον τῆς ἀνάγκης ἔοικεν εἶναι.  
ἔχω δὲ οὐδαμῶς ἄλλως ἐλέγχειν ἢ ἐξ ὧν τοὺς ἄλλους ὁ  
κατήγορος ἀπολύων αὐτὸν τὸν θάνατόν φησι μηνύειν ἐμὲ τὸν  
φονέα ὄντα. εἰ γὰρ τούτων ἀναιτίων δοκούντων εἶναι ἐν ἐμοὶ  
τὰ δίκημα φανεῖται, τούτων ὑπόπτων ὄντων ἐγὼ δικαίως  
καθαρὸς δοκοῖν εἶναι.

ἔστι δὲ οὐκ ἀπεικός, ὥς οὐτοί φασιν, ἀλλὰ εἰκὸς ἄνωρὶ τῶν 5  
νυκτῶν πλανώμενον ἐπὶ τοῖς ἱματίοις διαφθαρῆναι. τὸ γὰρ μὴ  
ἐκδυθῆναι οὐδὲν σημεῖόν ἐστιν· εἰ γὰρ μὴ ἔφθησαν περιδύσαντες  
αὐτόν, ἀλλὰ τινας προσιόντας φοβηθέντες ἀπέλιπον,  
ἐσωφρόνουν καὶ οὐκ ἐμαίνοντο τὴν σωτηρίαν τοῦ κέρδους  
προτιμῶντες. εἰ δὲ μὴ καὶ ἐπὶ τοῖς ἱματίοις διεφθάρη, ἀλλ' 6

2.2.1 ἐάν τέ Ν: ἐάν δέ Α

2.2.3 (bis) οὔσαν ΑΝ: ιοῦσαν Reiske

2.2.4 δικαίως Ν: δ'εἰκότως Α



- 7 ἑτέρους ἰδὼν ἄλλο τι κακὸν ποιοῦντας, ἵνα μὴ μηνυτῆς τοῦ ἀδικήματος γένηται, ἀπέθανεν ὑπ' αὐτῶν, τίς οἶδε; τοὺς δὲ μὴ πολὺ ἦσσαν ἐμοῦ μισοῦντας αὐτόν – ἦσαν δὲ πολλοί – πῶς οὐκ εἰκὸς ἦν ἐμοῦ μᾶλλον διαφθεῖραι αὐτόν; ἐκείνοις μὲν γὰρ φανερὰ ἦν ἡ ὑποψία εἰς ἐμὲ οὔσα, ἐγὼ δὲ ὑπὲρ ἐκείνων ὑπαίτιος
- 8 ἐσόμενος σαφῶς ἤδη. τοῦ δὲ ἀκολούθου ἡ μαρτυρία πῶς ἀξία πιστεῦεσθαί ἐστιν; ὑπὸ τε γὰρ τοῦ κινδύνου ἐκπεπληγμένον αὐτόν οὐκ εἰκὸς ἦν τοὺς ἀποκτείναντας γινῶναι, ὑπὸ τε τῶν κυρίων ἀναγιγνωσκόμενον ἐπινεῦσαι ἦν εἰκὸς. ἀπιστουμένων δὲ καὶ τῶν ἄλλων δούλων ἐν ταῖς μαρτυρίαις οὐ γὰρ ἂν ἐβασανίζομεν αὐτούς πῶς δίκαιον τούτῳ μαρτυροῦντι
- 9 πιστεύσαντας διαφθεῖραί με; εἰ δέ τις τὰ εἰκότα ἀληθέσιν ἴσα ἡγεῖται καταμαρτυρῆσαί μου, ταῦτόν ἀντιλογισάσθω ὅτι με εἰκότερον ἦν τὴν ἀσφάλειαν τῆς ἐπιβουλῆς τηροῦντα φυλάξασθαι καὶ μὴ παραγενέσθαι τῷ ἔργῳ μᾶλλον ἢ τοῦτον
- 10 σφαττόμενον ὀρθῶς γινῶναι. ὥς δὲ τόνδε τὸν κίνδυνον οὐκ ἀσφαλέστερον τοῦ ἀπὸ τῆς γραφῆς ἡγούμην εἶναι, ἀλλὰ πολλαπλάσιον, εἰ μὴ παρεφρόνουν, διδάξω. ἄλους μὲν γὰρ τὴν γραφὴν τῆς μὲν οὐσίας ἤδη ἐκστησόμενος, τοῦ δὲ σώματος καὶ τῆς πόλεως οὐκ ἀπεστερούμην, περιγενόμενος δὲ καὶ λειφθεὶς, κἂν ἔρανον παρὰ τῶν φίλων συλλέξας, οὐκ ἂν εἰς τὰ ἔσχατα κακὰ ἤλθον· ἐὰν δὲ νῦν καταληφθεὶς ἀποθάνω, ἀνόσια ὀνειδὴ τοῖς παισὶν ὑπολείψω, ἢ φυγῶν γέρων καὶ ἄπολις ὦν ἐπὶ
- 11 ξενίας πτωχεύσω. οὕτω μὲν ἃ κατηγορηταί μου, πάντα ἄπιστά ἐστιν· ἀπολύεσθαι δὲ ὑφ' ὑμῶν, εἰ καὶ εἰκότως μὲν ὄντως δὲ μὴ ἀπέκτεινα τὸν ἄνδρα, πολὺ μᾶλλον δίκαιός εἰμι. ἐγὼ τε γὰρ φανερόν ὅτι μεγάλα ἀδικούμενος ἡμυνόμην· οὐ γὰρ ἂν εἰκότως ἐδόκουν ἀποκτεῖναι αὐτόν· τοὺς τε ἀποκτείναντας καὶ οὐ τοὺς αἰτίαν ἔχοντας ἀποκτεῖναι ὀρθῶς ἂν καταλαμβάνοιτε.
- 12 ἐκ δὲ παντὸς τρόπου ἀπολυόμενος τῆς αἰτίας ἔγωγε οὔτε εἰς τὰ τεμένη εἰσιὼν τὴν ἀγνείαν τῶν θεῶν μιανῶ, οὔτε ὑμᾶς

2.2.6 (εἰκὸς) ἦν *A*: ἂν ἦν *A*<sup>2</sup>: ἦν ἂν *N* οὔσα *AN*: ἰοῦσα Reiske

2.2.10 ἡμυνόμην Keyser: ἡμυνάμην *AN*

πείθων ἀπολῦσαί με ἀνόσια πράττω. οἱ δὲ διώκοντες μὲν ἐμέ  
 τὸν ἀναίτιον, τὸν δ' αἴτιον ἀφιέντες, τῆς τε ἀφορίας αἴτιοι  
 γίνονται, ὑμᾶς τε ἀσεβεῖς εἰς τοὺς θεοὺς πείθοντες  
 καταστῆναι πάντων ὧν ἐμέ ἄξιόν φασι παθεῖν εἶναι δίκαιοί εἰσι  
 τυγχάνειν. τούτους μὲν οὖν τούτων ἀξίους ὄντας ἀπίστους 12  
 ἡγεῖσθε· ἐμέ δὲ ἔκ τε τῶν προειργασμένων γνώσεσθε οὔτε  
 ἐπιβουλεύοντα οὔτε τῶν οὐ προσηκόντων ὀρεγόμενον, ἀλλὰ  
 τὰ ἐναντία τούτων πολλὰς μὲν καὶ μεγάλας εἰσφοράς  
 εἰσφέροντα, πολλὰ δὲ τριηραρχοῦντα, λαμπρῶς δὲ  
 χορηγοῦντα, πολλοὺς δὲ ἐρανίζοντα, μεγάλας δὲ ὑπὲρ  
 πολλῶν ἐγγύας ἀποτίνοντα, τὴν τε οὐσίαν οὐ δικαζόμενον  
 ἀλλ' ἐργαζόμενον κεκτημένον, φιλοθύτην τε καὶ νόμιμον ὄντα.  
 τοιούτου δὲ ὄντος μου μηδὲν ἀνόσιον μηδ' αἰσχρὸν καταγνώτε.  
 εἰ δὲ ὑπὸ ζῶντος ἐδιωκόμην, οὐκ ἂν μόνον ὑπὲρ ἐμαυτοῦ 13  
 ἀπελογούμεην, ἀλλ' αὐτόν τε τοῦτον καὶ τοὺς τούτῳ μὲν  
 βοηθοῦντας, παρ' ἐμοῦ δὲ ὠφελεῖσθαι ζητοῦντας ἐφ' οἷς  
 κατηγορεῖτέ μου, ἐπέδειξα ἂν ἀδικοῦντας. ταῦτα μὲν οὖν  
 ἐπιεικέστερον ἢ δικαιότερον παρήσω· δέομαι δ' ὑμῶν, ὧ  
 ἄνδρες, τῶν μεγίστων κριταὶ καὶ κύριοι, ἐλεήσαντας τὴν  
 ἀτυχίαν μου ἰατροὺς γενέσθαι αὐτῆς, καὶ μὴ συνεπιβάντας τῇ  
 τούτων ἐπιθέσει περιδεῖν με ἀδίκως καὶ ἀθέως διαφθαρέντα ὑπ'  
 αὐτῶν.

## 2.3

Ἡ τε ἀτυχία ἀδικεῖται ὑπ' αὐτοῦ, ἦν προῖστάμενος τῆς 1  
 κακουργίας ἀφανίσει τὴν αὐτοῦ μιανίαν ζητεῖ· ὑπὸ τε ὑμῶν οὐκ  
 ἄξιος ἐλεεῖσθαί ἐστιν, ἀκούσιον μὲν τῷ παθόντι περιθεῖς τὴν  
 συμφορὰν, ἐκουσίως δὲ αὐτὸς εἰς τοὺς κινδύνους καταστάς. ὥς  
 μὲν οὖν ἀπέκτεινε τὸν ἄνδρα, ἐν τῷ προτέρῳ λόγῳ  
 ἀπεδείξαμεν· ὥς δὲ οὐκ ὀρθῶς ἀπελογήθη, νῦν πειρασόμεθα  
 ἐλέγχοντες.

εἴτε γὰρ προσιόντας τινὰς προῖδόντες οἱ ἀποκτείναντες 2

- αὐτοὺς ἀπολιπόντες ὥιχοντο φεύγοντες πρότερον ἢ ἀπέδυσαν, οἱ ἐντυχόντες ἂν αὐτοῖς, εἰ καὶ τὸν δεσπότην τεθνεῶτα ἡῦρον, τὸν γε θεράποντα, ὃς ἔμπνους ἀρθεὶς ἐμαρτύρει, ἔτι ἔμφρονα εὐρόντες, σαφῶς ἀνακρίναντες τοὺς ἐργασασμένους ἡγγειλαν ἂν ἡμῖν, καὶ οὐχ οὗτος ἂν τὴν αἰτίαν εἶχεν. εἴτε ἄλλοι τινὲς ἕτερόν τι τοιοῦτον κακουργοῦντες ὀφθέντες ὑπ' αὐτῶν, ἵνα μὴ γνωσθῶσι διέφθειραν αὐτούς, ἅμα τῷ τούτων φόνῳ τὸ κακούργημα ἂν ἐκηρύσσετο καὶ εἰς
- 3 τούτους ἂν ἡ ὑποψία ἦκεν. οἱ τε ἦσσαν κινδυνεύοντες τῶν μᾶλλον ἐν φόβῳ ὄντων οὐκ οἶδ' ὅπως ἂν μᾶλλον ἐπεβούλευσαν αὐτῶι· τοὺς μὲν γὰρ ὅ τε φόβος ἢ τε ἀδικία ἱκανὴ ἦν παῦσαι τῇ, προμηθείας, τοῖς δὲ ὅ τε κίνδυνος ἢ τε αἰσχύνῃ μείζων οὕσα τῆς διαφορᾶς, εἰ καὶ διανοήθησαν ταῦτα πράξαι,
- 4 ἀρκοῦσα ἦν σωφρονίσει τὸ θυμούμενον τῆς γνώμης. οὐκ ὀρθῶς δὲ τὴν τοῦ ἀκολούθου μαρτυρίαν ἀπιστον λέγουσιν εἶναι. οὐ γὰρ ἐπὶ ταῖς τοιαύταις μαρτυρίαις βασανίζονται, ἀλλ' ἐλεύθεροι ἀφίενται· ὁπόταν δὲ ἡ κλέψαντες ἀπαρνῶνται ἢ συγκρούπτωσι τοῖς δεσπότηις, τότε βασανίζοντες ἀξιούμεν
- 5 τάληθῇ λέγειν αὐτούς. οὐδὲ μὴν ἀπογενέσθαι ἢ παραγενέσθαι εἰκότερον αὐτόν ἐστιν. εἰ γὰρ ἀπεγένετο, τὸν μὲν κίνδυνον τὸν αὐτόν ἔμελλε καὶ παρῶν κινδυνεύειν, πᾶς γὰρ αὐτῶν ληφθεὶς τοῦτον ἂν τὸν ἐπιβουλεύσαντα ἤλεγχεν ὄντα, τὸ δ' ἔργον ἦσσαν πράσσειν, οὐδεὶς γὰρ ὅστις τῶν παρόντων οὐκ ἂν
- 6 ὀκνηρότερος εἰς τὴν πράξιν ἦν. ὥς δ' οὐκ ἐλάσσω ἀλλὰ πολὺ μείζω τὸν ἀπὸ τῆς γραφῆς κίνδυνον ἢ τόνδε ἡγεῖτο εἶναι, διδάξω. τὸ μὲν ἀλῶναι καὶ ἀποφυγεῖν ἀμφοτέρας τὰς διώξεις ἐν ἴσαις ἐλπίσι θῶμεν αὐτῶι εἶναι. μὴ παραχθῆναι δὲ τὴν γραφὴν οὐδεμίαν ἐλπίδα εἶχε τούτου γε ζῶντος· οὐ γὰρ ἂν ἐπείθετο αὐτῶι· εἰς δὲ τόνδε τὸν ἀγῶνα ἤξειν οὐκ ἤλπισε· λήσειν
- 7 γὰρ ἐδόκει ἀποκτείνας αὐτόν. ἀξιῶν δὲ διὰ τὸ φανερὰν εἶναι τὴν ὑποψίαν αὐτῶι μὴ καταδοκεῖσθαι ὑφ' ὑμῶν, οὐκ ὀρθῶς ἀξιοῖ. εἰ γὰρ τοῦτον ἐν τοῖς μεγίστοις κινδύνοις ὄντα ἱκανὴ ἦν ἡ

2.3.3 προμηθείας Bekker: προθυμίας *AN*

2.3.7 εἰ γὰρ . . . οὐδεὶς γ' ἂν Reiske: οὐ γὰρ . . . οὐδεὶς γὰρ *AN* ἐπέθετο Maetzner: ἡγεῖτο *AN*

ὑποψία ἀποστρέψαι τῆς ἐπιθέσεως, οὐδεὶς γ' ἂν ἐπεβούλευσεν αὐτῷ· πᾶς γὰρ ἂν τις τῶν ἡσσον κινδυνευόντων, τὴν ὑποψίαν μᾶλλον τοῦ κινδύνου φοβούμενος, ἡσσον ἢ οὗτος ἐπέθετο αὐτῷ. αἱ δ' εἰσφοραὶ καὶ χορηγαί εὐδαιμονίας μὲν ἱκανὸν 8 σημεῖόν ἐστι, τοῦ δὲ μὴ ἀποκτεῖναι τάναντία· περὶ γὰρ αὐτῆς τῆς εὐδαιμονίας τρέμων μὴ ἀποστερηθῇ, εἰκότως μὲν ἀνοσίως δὲ ἀπέκτεινε τὸν ἄνδρα. φάσκων δὲ οὐ τοὺς εἰκότως ἀλλὰ τοὺς ἀποκτείναντας φονέας εἶναι, περὶ μὲν τῶν ἀποκτεινάντων ὀρθῶς λέγει, εἴπερ ἐγένετο φανερόν ἡμῖν τίνες ἦσαν οἱ ἀποκτείναντες αὐτόν· μὴ δεδηλωμένων δὲ τῶν ἀποκτεινάντων, ὑπὸ τῶν εἰκότων ἐλεγχόμενος οὗτος ἂν καὶ οὐδεὶς ἕτερος ἀποκτείνας αὐτὸν εἴη. οὐ γὰρ ἐπὶ μαρτύρων ἀλλὰ κρυπτόμενα πράσσεται τὰ τοιαῦτα.

οὕτω δὲ φανερώς ἐκ τῆς αὐτοῦ ἀπολογίας ἐλεγχθεὶς 9 διαφθείρας αὐτόν, οὐδὲν ἕτερον ὑμῶν δεῖται ἢ τὴν αὐτοῦ μιαρίαν εἰς ὑμᾶς αὐτοὺς ἐκτρέψαι. ἡμεῖς δὲ ὑμῶν δεόμεθα μὲν οὐδέν, λέγομεν δ' ὑμῖν, εἰ μήτε ἐκ τῶν εἰκότων μήτε ἐκ τῶν μαρτυρουμένων οὗτος νῦν ἐλέγχεται, οὐκ ἔστιν ἔτι τῶν διωκομένων ἔλεγχος οὐδεὶς. ἀδίκως δ' ἀπολυομένου τούτου 10 ὑφ' ὑμῶν, ἡμῖν μὲν προστρόπαιος ὁ ἀποθανὼν οὐκ ἔσται, ὑμῖν δὲ ἐνθύμιος γενήσεται. σαφῇ μὲν γὰρ τὸν θάνατον γινώσκοντες φανερώς δὲ τὰ ἴχνη τῆς ὑποψίας εἰς τοῦτον φέροντα, πιστῶς δὲ τοῦ ἀκολούθου μαρτυροῦντος, πῶς ἂν δικαίως ἀπολύοιτε αὐτόν; ταῦτα οὖν εἰδότες βοηθεῖτε μὲν τῷ 11 ἀποθανόντι, τιμωρεῖσθε δὲ τὸν ἀποκτείναντα, ἀγνεύετε δὲ τὴν πόλιν. τρία γὰρ ἀγαθὰ πράξετε· ἐλάσσους μὲν τοὺς ἐπιβουλεύοντας καταστήσετε, πλείους δὲ τοὺς τὴν εὐσέβειαν ἐπιτηδεύοντας, ἀπολύεσθε δ' αὐτοὶ τῆς ὑπὲρ τούτου μιαρίας.

## 2.4

Ἴδου ἐγὼ τῇ τε ἀτυχίαι, ἣν οὐ δικαίως αἰτιῶμαι, ὥς οὗτοί 1 φασιν, ἐκὼν ἑμαυτὸν ἐγχειρίζω, τῇ τε τούτων ἔχθρῃ, δεδιῶς

2.3.8 ἐπὶ Aldus: ὑπὸ *AN*2.3.9 φανερώς *A*<sup>2</sup>: φανερός *AN*

- μὲν τὸ μέγεθος τῆς διαβολῆς αὐτῶν, πιστεύων δὲ τῇ ὑμετέραι γνώμῃ τῇ τε ἀληθείᾳ τῶν ἐξ ἐμοῦ πραχθέντων. ἀποστερούμενος δὲ ὑπ' αὐτῶν μηδὲ τὰς παρούσας ἀτυχίας ἀνακλαύσασθαι πρὸς ὑμᾶς, ἀπορῶ εἰς ἥντινα ἄλλην σωτηρίαν
- 2 χρή με καταφυγεῖν. καινότατα γὰρ δὴ, εἰ χρή καινότατα μᾶλλον ἢ κακουργότατα εἰπεῖν, διαβάλλουσί με. κατήγοροι γὰρ καὶ τιμωροὶ φόνου προσποιούμενοι εἶναι, ὑπεραπολογούμενοι τῆς ἀληθοῦς ὑποψίας ἀπάσης, διὰ τὴν ἀπορίαν τοῦ ἀποκτείναντος αὐτὸν ἐμὲ φονέα φασὶν εἶναι, δρῶντες δὲ τάναντία ὧν προστέτακται αὐτοῖς, φανερόν ὅτι ἀδίκως ἐμὲ μᾶλλον ἀποκτείνειν ζητοῦσιν ἢ τὸν φονέα τιμωρεῖσθαι. ἐμὲ δὲ
- 3 προσῆκεν οὐδὲν ἄλλο ἢ πρὸς τὴν μαρτυρίαν τοῦ ἀκολουθούτου ἀπολογηθῆναι· οὐ γὰρ μηνυτὴς οὐδ' ἐλεγκτὴρ τῶν ἀποκτεινάντων εἰμί, ἀλλὰ διωκόμενος ἀποκρίνομαι. ὅμως δὲ περιεργαστέον, ἵνα ἐκ παντὸς τρόπου τούτους τε ἐπιβουλεύοντάς μοι ἐμαυτὸν τε ἀπολνόμενον ἐπιδείξω τῆς
- 4 ὑποψίας. τὴν μὲν οὖν ἀτυχίαν ἣ με διαβάλλουσιν, εἰς εὐτυχίαν αἰτοῦμαι μεταστῆναι· ἄξιῳ δ' ὑμᾶς ἀπολύσαγτάς με μακαρίσαι μᾶλλον ἢ καταλαβόντας ἐλεῆσαι.

- φασὶ δὲ τῶν μὲν ἐντυχόντων παιομένοις αὐτοῖς οὐδένα ὄντινα οὐκ εἰκότερον εἶναι σαφῶς πυθόμενον τοὺς διαφθείραντας αὐτοὺς εἰς οἶκον ἀγγεῖλαι, ἢ ἀπολιπόντα
- 5 οἴχεσθαι. ἐγὼ δὲ οὐδένα οὕτω θερμὸν καὶ ἀνδρεῖον ἄνθρωπον εἶναι δοκῶ ὄντινα οὐκ ἂν ἄωρὶ τῶν νυκτῶν νεκροῖς ἀσπαίρουσι συντυχόντα πάλιν ὑποστρέψαντα φεύγειν μᾶλλον ἢ πυνθανόμενον τοὺς κακούργους περὶ τῆς ψυχῆς κινδυνεῦσαι. τούτων δὲ μᾶλλον ἢ εἰκὸς ἦν δρασάντων, οἱ μὲν ἐπὶ τοῖς ἱματίοις διαφθείραντες αὐτοὺς οὐκ ἂν ἔτι εἰκότως
- 6 ἀφίοιντο, ἐγὼ δὲ ἀπήλλαγμαί τῆς ὑποψίας. εἰ δὲ ἐκηρύσσοντο ἢ μὴ ἄλλοι τινὲς κακοῦργοι ἅμα τῷ τούτων φόνῳ, τίς οἶδεν; οὐδενὶ γὰρ ἐπιμελὲς ἦν σκοπεῖν ταῦτα. ἀφανοῦς δὲ ὄντος τοῦ κηρύγματος, οὐδὲ ὑπὸ τούτων τῶν κακούργων ἄπιστον
- 7 διαφθαρῆναι αὐτόν. τοῦ δὲ θεράποντος πῶς χρή πιστοτέραν τὴν μαρτυρίαν ἢ τῶν ἐλευθέρων ἡγεῖσθαι; οἱ μὲν γὰρ ἀτιμοῦνται τε καὶ χρήμασι ζημιοῦνται, ἐὰν μὴ τὰληθῇ δοκῶσι

μαρτυρῆσαι· ὁ δὲ οὐκ ἔλεγχον παρασχών οὐδὲ βάσανον ποῦ δίκην δώσει· ἢ τίς ἔλεγχος ἔσται· ἀκινδύνως τε οὗτός γε μέλλων μαρτυρεῖν οὐδὲν θαυμαστὸν ἔπαθεν ὑπὸ τῶν κυρίων ἐχθρῶν μοι ὄντων πεισθεῖς καταψεύδεσθαί μου· ἐγὼ τε ἀνόσι' ἂν πάσχοιμι, εἰ μὴ πιστῶς καταμαρτυρηθεῖς διαφθαρεῖην ὑφ' ὑμῶν. μὴ παραγενέσθαι δέ με τῷ φόνωι ἀπιστότερον ἢ 8 παραγενέσθαι φασὶν εἶναι. ἐγὼ δ' οὐκ ἐκ τῶν εἰκότων ἀλλ' ἔργωι δηλώσω οὐ παραγενόμενος. ὅποσοι γὰρ δοῦλοί μοι ἢ δοῦλαί εἰσι, πάντας παραδίδωμι βασανίσαι· καὶ ἐὰν μὴ φανῶ ταύτῃ τῇ νυκτὶ ἐν οἴκωι καθεύδων ἢ ἐξελθών που, ὁμολογῶ φονεὺς εἶναι. ἡ δὲ νύξ οὐκ ἄσημος· τοῖς γὰρ Διιπολείοις ὁ ἀνὴρ ἀπέθανε. περὶ δὲ τῆς εὐδαιμονίας, ἧς ἔνεκα τρέμοντά μέ φασιν 9 εἰκότως ἀποκτεῖναι αὐτόν, πολὺ τάναντία ἐστί. τοῖς μὲν γὰρ ἀτυχοῦσι νεωτερίζειν συμφέρει· ἐκ γὰρ τῶν μεταβολῶν ἐπίδοξος ἢ δυσπραγία μεταβάλλειν αὐτῶν ἐστί· τοῖς δ' εὐτυχοῦσιν ἀτρεμίζειν καὶ φυλάσσειν τὴν παροῦσαν εὐπραγίαν· μεθισταμένων γὰρ τῶν πραγμάτων δυστυχεῖς ἐξ εὐτυχούντων καθίστανται. ἐκ δὲ τῶν εἰκότων προσποιούμενοί 10 με ἐλέγχειν, οὐκ εἰκότως ἀλλ' ὄντως φονέα μέ φασι τοῦ ἀνδρὸς εἶναι. τὰ δὲ εἰκότα ἄλλα πρὸς ἐμοῦ μᾶλλον ἀποδέδεικται ὄντα· ὃ τε γὰρ καταμαρτυρῶν μου ἄπιστος ἐλήλεγκται ὦν, ὃ τε ἔλεγχος οὐκ ἔστι, τὰ τε τεκμήρια ἐμά, οὐ τούτου ὄντα ἐδήλωσα, τὰ τε ἴχνη τοῦ φόνου οὐκ εἰς ἐμέ φέροντα ἀλλ' εἰς τοὺς ἀπολυομένους ἀποδέδεικται ὑπ' αὐτῶν.

πάντων δὲ τῶν κατηγορηθέντων ἀπίστων ἐλεγχθέντων, οὐκ ἐὰν ἀποφύγω οὐκ ἔστιν ἐξ ὧν ἐλεγχθήσονται οἱ κακουργοῦντες, ἀλλ' ἐὰν ἐλεγχθῶ οὐδεμία ἀπολογία τοῖς διωκομένοις ἀρκοῦσά ἐστιν. οὕτω δὲ ἀδίκως διώκοντές με, 11 αὐτοὶ μὲν ἀνοσίως ἀποκτεῖναι ζητοῦντες καθαροὶ φασιν εἶναι, ἐμέ δέ, ὃς εὐσεβεῖν ὑμᾶς πείθω, ἀνόσια δρᾶν λέγουσιν. ἐγὼ δὲ καθαρὸς ὦν πάντων τῶν ἐγκλημάτων ὑπὲρ ἐμαυτοῦ ἐπισκῆπτω αἰδεῖσθαι τὴν τῶν μηδὲν ἀδικούντων εὐσέβειαν, ὑπὲρ δὲ τοῦ ἀποθανόντος ἀναμιμνήσκων τὴν ποινὴν

- παραινῶ ὑμῖν, μὴ τὸν ἀναίτιον καταλαβόντας τὸν αἴτιον ἀφεῖναι· ἀποθανόντος γὰρ ἐμοῦ οὐδεὶς ἔτι τὸν αἴτιον ζητήσει.
- 12 ταῦτα οὖν σεβόμενοι ὁσίως καὶ δικαίως ἀπολύετε με, καὶ μὴ μετανοήσαντες τὴν ἁμαρτίαν γινῶτε· ἀνίατος γὰρ ἡ μετάνοια τῶν τοιούτων ἐστίν.

### 3. Τετραλογία Β

#### 3.1

- 1 Τὰ μὲν ὁμολογούμενα τῶν πραγμάτων ὑπὸ τε τοῦ νόμου κατακέκριται ὑπὸ τε τῶν ψηφισαμένων, οἱ κύριοι πάσης τῆς πολιτείας εἰσὶν· ἐὰν δέ τι ἀμφισβητήσιμον ᾖ, τοῦτο ὑμῖν, ὦ ἄνδρες πολῖται, προστέτακται διαγινῶναι. οἶμαι μὲν οὖν οὐδὲ ἀμφισβητήσιν πρὸς ἐμὲ τὸν διωκόμενον· ὁ γὰρ παῖς μου ἐν γυμνασίῳ ἀκοντισθεὶς διὰ τῶν πλευρῶν ὑπὸ τούτου τοῦ μειρακίου παραχρῆμα ἀπέθανεν. ἐκόντα μὲν οὖν οὐκ ἐπικαλῶ
- 2 ἀποκτεῖναι, ἄκοντα δέ. ἐμοὶ δὲ οὐκ ἐλάσσω τοῦ ἐκόντος ἄκων τὴν συμφορὰν κατέστησε. τῷ δὲ ἀποθανόντι αὐτῷ μὲν οὐδὲν ἐνθύμιον, τοῖς δὲ ζῶσι προσέθηκεν. ὑμᾶς δὲ ἀξιῶ ἐλεοῦντας μὲν τὴν ἀπαιδίαν τῶν γονέων, οἰκτίροντας δὲ τὴν ἄωρον τοῦ ἀποθανόντος τελευτῇ, εἴργοντας ὧν ὁ νόμος εἴργει τὸν ἀποκτείναντα μὴ περιορᾶν ἅπασαν τὴν πόλιν ὑπὸ τούτου μαινομένην.

#### 3.2

- 1 Νῦν δὴ φανερόν μοι ὅτι αὐταὶ αἱ συμφοραὶ καὶ χρεῖαι τοὺς τε ἀπράγμονας εἰς ἀγῶνας τοὺς τε ἡσυχίους τολμᾶν τά τε ἄλλα παρὰ φύσιν λέγειν καὶ δρᾶν βιάζονται. ἐγὼ γὰρ ἥκιστα τοιοῦτος ὢν καὶ βουλόμενος εἶναι, εἰ μὴ πολὺ γε ἔψευσμαι, ὑπ' αὐτῆς τῆς συμφορᾶς ἠναγκάσθην νῦν παρὰ τὸν ἄλλον τρόπον ὑπὲρ πραγμάτων ἀπολογεῖσθαι, ὧν ἐγὼ χαλεπῶς μὲν τὴν ἀκρίβειαν ἔγνω, ἔτι δὲ ἀπορωτέρως διάκειμαι ὥς χρή ὑμῖν
- 2 ἐρμηνεῦσαι ταῦτα. ὑπὸ δὲ σκληρᾶς ἀνάγκης βιαζόμενος, καὶ

αὐτὸς εἰς τὸν ὑμέτερον ἔλεον, ὧ ἄνδρες δικασταί, καταπεφευγῶς δέομαι ὑμῶν, ἐὰν ἀκριβέστερον ἢ ὥς σύνθητες ὑμῖν δόξω εἰπεῖν, μὴ διὰ τὰς προειρημένας τύχας ἀποδεξαμένους μου τὴν ἀπολογίαν δόξῃ καὶ μὴ ἀληθεῖαι τὴν κρίσιν ποιήσασθαι· ἡ μὲν γὰρ δόξα τῶν πραχθέντων πρὸς τῶν λέγειν δυναμένων ἐστίν, ἡ δὲ ἀλήθεια πρὸς τῶν δίκαια καὶ ὅσια πρᾶσσόντων.

ἐδόκουν μὲν οὖν ἔγωγε ταῦτα παιδεύων τὸν υἱὸν ἐξ ὧν 3  
 μάλιστα τὸ κοινὸν ὠφελεῖται, ἀμφοῖν τι ἡμῖν ἀγαθὸν ἀποβήσασθαι· συμβέβηκε δέ μοι πολὺ παρὰ γνώμην τούτων. τὸ γὰρ μειράκιον οὐχ ὕβρει οὐδὲ ἀκολασίαι, ἀλλὰ μελετῶν μετὰ τῶν ἡλίκων ἀκοντίζειν ἐν τῷ γυμνασίῳ, ἔβαλε μὲν, οὐκ ἀπέκτεινε δὲ οὐδένα κατὰ γε τὴν ἀλήθειαν ὧν ἔπραξεν, ἄλλου δ' εἰς αὐτὸν ἀμαρτόντος εἰς ἀκουσίους αἰτίας ἦλθεν. εἰ μὲν γὰρ 4  
 τὸ ἀκόντιον ἔξω τῶν ὄρων τῆς αὐτοῦ πορείας ἐπὶ τὸν παῖδα ἐξενεχθὲν ἔτρωσεν αὐτόν, οὐδεὶς ἡμῖν λόγος ὑπελείπετο μὴ φονεῦσιν εἶναι· τοῦ δὲ παιδὸς ὑπὸ τὴν τοῦ ἀκοντίου φορὰν ὑποδραμόντος καὶ τὸ σῶμα προστήσαντος, <ὁ μὲν ἐκωλύθη> τοῦ σκοποῦ τυχεῖν, ὁ δὲ ὑπὸ τὸ ἀκόντιον ὑπελθὼν ἐβλήθη, καὶ τὴν αἰτίαν οὐχ ἡμετέραν οὔσαν προσέβαλεν ἡμῖν. διὰ δὲ τὴν 5  
 ὑποδρομὴν βληθέντος τοῦ παιδός, τὸ μὲν μειράκιον οὐ δικαίως ἐπικαλεῖται, οὐδένα γὰρ ἔβαλε τῶν ἀπὸ τοῦ σκοποῦ ἀφεστῶτων· ὁ δὲ παῖς εἴπερ ἐστὼς φανερός ὑμῖν ἐστὶ μὴ βληθεὶς, ἐκουσίως <δ'> ὑπὸ τὴν φορὰν τοῦ ἀκοντίου ὑπελθὼν, ἔτι σαφεστέρως δηλοῦται διὰ τὴν αὐτοῦ ἀμαρτίαν ἀποθανών· οὐ γὰρ ἂν ἐβλήθη ἀτρεμίζων καὶ μὴ διατρέχων.

ἀκουσίου δὲ τοῦ φόνου ἐξ ἀμφοῖν ὑμῖν ὁμολογουμένου 6  
 γενέσθαι, ἐκ τῆς ἀμαρτίας, ὁποτέρου αὐτῶν ἐστίν, ἔτι δὲ σαφέστερον ὁ φονεὺς ἐλεγχθεῖη. οἳ τε γὰρ ἀμαρτάνοντες ὧν ἂν ἐπινοήσωσί τι δρᾶσαι, οὗτοι πράκτορες τῶν ἀκουσίων εἰσίν· οἳ τε ἀκούσιόν τι δρῶντες ἢ πάσχοντες, οὗτοι τῶν παθημάτων

3.2.4 ὁ μὲν ἐκωλύθη add. Reiske

3.2.5 δ' add. Blass

3.2.6 οἳ τε ἀκούσιόν: τε Spengel: ἀκούσιόν Pahle: οἳ δὲ ἐκούσιόν AN



- 7 αἵτιοι γίνονται. τὸ μὲν τοίνυν μεράκιον περὶ οὐδένα οὐδὲν ἤμαρτεν· οὔτε γὰρ ἀπειρημένον ἀλλὰ προστεταγμένον ἐμελέτα, οὔτε ἐν γυμναζομένοις ἀλλ' ἐν τῇ τῶν ἀκοντιζόντων τάξει ἠκόντιζεν, οὔτε τοῦ σκοποῦ ἀμαρτῶν, εἰς τοὺς ἀφεστῶτας ἀκοντίσας, τοῦ παιδὸς ἔτυχεν, ἀλλὰ πάντα ὀρθῶς ὡς ἐπενόει δρῶν ἔδρασε μὲν οὐδὲν ἀκούσιον, ἔπαθε δὲ
- 8 διακωλυθεὶς τοῦ σκοποῦ τυχεῖν. ὁ δὲ παῖς βουλόμενος προδραμεῖν, τοῦ καιροῦ διαμαρτῶν ἐν ᾧ διατρέχων οὐκ ἂν ἐπλήγη, περιέπεσεν οἷς οὐκ ἤθελεν, ἀκουσίως δὲ ἀμαρτῶν εἰς ἑαυτὸν οἰκείαις συμφοραῖς κέχρηται, τῆς δ' ἀμαρτίας τετιμωρημένος ἑαυτὸν ἔχει τὴν δίκην, οὐ συνηδομένων μὲν οὐδὲ συνεθελόντων ἡμῶν, συναλγούντων δὲ καὶ συλλυπουμένων. τῆς δὲ ἀμαρτίας εἰς τοῦτον ἠκούσης, τὸ ἔργον οὐχ ἡμέτερον ἀλλὰ τοῦ ἐξαμαρτόντος ἐστί, τό τε πάθος εἰς τὸν δράσαντα ἐλθὼν ἡμᾶς μὲν ἀπολύει τῆς αἰτίας, τὸν δὲ δράσαντα δικαίως
- 9 ἅμα τῇ ἀμαρτίᾳ τετιμώρηται. ἀπολύει δὲ καὶ ὁ νόμος ἡμᾶς, ᾧ πιστεύων, εἵργοντι μήτε ἀδίκως μήτε δικαίως ἀποκτείνειν, ὡς φονέα με διώκει. ὑπὸ μὲν γὰρ τῆς αὐτοῦ τοῦ τεθνεώτος ἀμαρτίας ὅδε ἀπολύεται μηδὲ ἀκουσίως ἀποκτεῖναι αὐτόν· ὑπὸ δὲ τοῦ διώκοντος οὐδ' ἐπικαλούμενος ὡς ἐκὼν ἀπέκτεινεν, ἀμφοῖν ἀπολύεται τοῖν ἐγκλημάτοι, μήτε ἐκὼν <μήτε ἄκων> ἀποκτεῖναι.
- 10 ἀπολυόμενος δὲ ὑπὸ τε τῆς ἀληθείας τῶνπραχθέντων ὑπὸ τε τοῦ νόμου καθ' ὃν διώκεται, οὐδὲ τῶν ἐπιτηδευμάτων εἵνεκα δίκαιοι τοιοῦτων κακῶν ἀξιούσθαι ἐσμεν. οὗτός τε γὰρ ἀνόσια πείσεται τὰς οὐ προσηκούσας φέρων ἀμαρτίας, ἐγὼ τε μᾶλλον μὲν οὐδέν, ὁμοίως δὲ τούτῳ ἀναμάρτητος ὢν, εἰς πολλαπλασίους τούτου συμφορὰς ἤξω· ἐπὶ τε γὰρ τῇ τούτου διαφθορᾷ ἀβίωτον τὸ λειπόμενον τοῦ βίου διάξω, ἐπὶ τε τῇ
- 11 ἑμαιοῦ ἀπαιδία ζῶν ἔτι κατορυχθήσομαι. ἐλεοῦντες οὖν τοῦδε μὲν τοῦ νηπίου τὴν ἀναμάρτητον συμφοράν, ἐμοῦ δὲ τοῦ γηραιοῦ καὶ ἀθλίου τὴν ἀπροσδόκητον κακοπάθειαν, μὴ καταψηφισάμενοι δυσμόρους ἡμᾶς καταστήσητε, ἀλλ'

ἀπολύοντες εὐσεβεῖτε. ὅ τε γὰρ ἀποθανῶν συμφοραῖς περιπεσῶν οὐκ ἀτιμώρητός ἐστιν, ἡμεῖς τε οὐ δίκαιοι τὰς τούτων ἀμαρτίας συμφέρειν ἐσμέν. τὴν τε οὖν εὐσέβειαν 12 τούτων τῶν πραχθέντων καὶ τὸ δίκαιον αἰδούμενοι ὁσίως καὶ δικαίως ἀπολύετε ἡμᾶς, καὶ μὴ ἀθλιωτάτῳ δύο πατέρα καὶ παῖδα ἰσχυροῖς συμφοραῖς περιβάλητε.

## 3.3

“Ὅτι μὲν αὐτὴ ἡ χρεία παρὰ φύσιν καὶ λέγειν καὶ δρᾶν ἅπαντας 1 ἀναγκάζει, ἔργῳ καὶ οὐ λόγῳ δοκεῖ μοι σημαίνειν οὗτος· ἥκιστα γὰρ ἓν γε τῷ ἔμπροσθεν χρόνῳ ἀναιδὴς καὶ τολμηρὸς ὢν, νῦν ὑπ’ αὐτῆς τῆς συμφορᾶς ἠνάγκασται λέγειν οἷα οὐκ ἂν ποτε ὦμιμν ἐγὼ τοῦτον εἶπειν. ἐγὼ τε γὰρ πολλῇ ἀνοίᾳ χρώμενος 2 οὐκ ἂν ὑπέλαβον τοῦτον ἀντειπεῖν· οὐδὲ γὰρ ἂν ἓνα λόγον ἀντὶ δυοῖν λέξας τὸ ἡμῖς τῆς κατηγορίας ἐμαυτὸν ἂν ἀπεστέρησα· οὗτός τε μὴ τολμῶν οὐκ ἂν προεῖχε τῷ διπλασίῳ μου, ἓνα μὲν πρὸς ἓνα λόγον ἀπολογηθεῖς, ἃ δὲ κατηγορήσεν ἀναποκρίτως εἰπὼν. τοσοῦτον δὲ προέχων ἐν τοῖς λόγοις ἡμῶν, ἔτι δὲ ἐν οἷς 3 ἔπρασσε πολλαπλάσια τούτων, οὗτος μὲν οὐχ ὁσίως δεῖται ὑμῶν συχνῶς τὴν ἀπολογίαν ἀποδέχεσθαι αὐτοῦ· ἐγὼ δὲ δράσας μὲν οὐδὲν κακόν, παθὼν δὲ ἄθλια καὶ δεινά, καὶ νῦν ἔτι δεινότερα τούτων, ἔργῳ καὶ οὐ λόγῳ εἰς τὸν ὑμέτερον ἔλεον καταπεφευγὼς δέομαι ὑμῶν, ὧς ἄνδρες ἀνοσίων ἔργων τιμωροί, ὁσίων δὲ διαγνώμονες, μὴ ἔργα φανερά ὑπὸ πονηρᾶς λόγων ἀκριβείας πεισθέντας ψευδῇ τὴν ἀλήθειαν τῶν πραχθέντων ἡγήσασθαι· ἢ μὲν γὰρ πιστότερον ἢ ἀληθέστερον σύγκειται, ἢ δ’ 4 ἀδολώτερον καὶ ἀδυνατώτερον λεχθήσεται. τῷ μὲν οὖν δικαίῳ πιστεύων ὑπερορῶ τῆς ἀπολογίας· τῇ δὲ σκληρότητι τοῦ δαίμονος ἀπιστῶν ὀρρωδῶ, μὴ οὐ μόνον τῆς χρείας τοῦ παιδὸς ἀποστερηθῶ, ἀλλὰ καὶ αὐθέντην προσκαταγνωσθέντα ὑφ’ ὑμῶν ἐπίδω αὐτόν.

3.3.2 ἀντὶ δυοῖν λέξας Reiske: ἀντιδούς [ἢ λέξας] Maetzner: ἀντιδούς ἢ λέξας AN

- 5 εἰς τοῦτο γὰρ τόλμης καὶ ἀναιδεΐας ἤκει, ὥστε τὸν μὲν βαλόντα καὶ ἀποκτείναντα οὔτε τρῶσαι οὔτε ἀποκτεῖναί φησι, τὸν δὲ οὔτε ψαύσαντα τοῦ ἀκοντίου οὔτε ἐπινοήσαντα ἀκοντίσαι, ἀπάσης μὲν γῆς ἀμαρτόντα, πάντων δὲ σωμάτων, διὰ τῶν ἑαυτοῦ πλευρῶν διαπῆξαι τὸ ἀκόντιον λέγει. ἐγὼ δὲ ἐκουσίως κατηγορῶν ἀποκτεῖναι αὐτὸν πιστότερος ἂν μοι δοκῶ εἶναι ἢ οὗτος, <ὅς> μῆτε βαλεῖν μῆτε ἀποκτεῖναί φησι τὸ
- 6 μεῖράκιον. ὁ μὲν γὰρ ἐν τούτῳ τῷ καιρῷ καλούμενος ὑπὸ τοῦ παιδοτρίβου, ὅς ὑπεδέχετο τοῖς ἀκοντίζουσι τὰ ἀκόντια ἀναιρεῖσθαι, διὰ τὴν τοῦ βαλόντος ἀκολασίαν πολεμίῳ τῷ τούτου βέλει περιπεσών, οὐδὲν οὐδ' εἰς ἓν' ἀμαρτών, ἀθλίως ἀπέθανε· ὁ δὲ περὶ τὸν τῆς ἀναιρέσεως καιρὸν πλημμελήσας, οὐ τοῦ σκοποῦ τυχεῖν ἐκωλύθη, ἀλλ' ἄθλιον καὶ πικρὸν σκοπὸν ἐμοὶ ἀκοντίσας, ἐκὼν μὲν οὐκ ἀπέκτεινε, μᾶλλον δὲ ἐκὼν ἢ οὔτε
- 7 ἔβαλεν οὔτε ἀπέκτεινεν. ἀκουσίως δὲ οὐχ ἦσσαν ἢ ἐκουσίως ἀποκτείναντός μου τὸν παῖδα, τὸ παράπαν δὲ ἀρνούμενου μὴ ἀποκτεῖναι αὐτόν, οὐδ' ὑπὸ τοῦ νόμου καταλαμβάνεσθαι φησιν, ὅς ἀπαγορεύει μῆτε δικαίως μῆτε ἀδίκως ἀποκτείνειν. ἀλλὰ τίς ὁ βαλὼν; εἰς τίν' ὁ φόνος ἀνήκει; εἰς τοὺς θεωμένους ἢ εἰς τοὺς παιδαγωγούς, ὧν οὐδεὶς οὐδὲν κατηγορεῖ; οὐ γὰρ ἀφανῆς ἀλλὰ καὶ λίαν φανερός ἔμοιγε αὐτοῦ ὁ θάνατός ἐστιν. ἐγὼ δὲ τὸν νόμον ὀρθῶς ἀγορεύειν φημι τοὺς ἀποκτείναντας κολάζεσθαι· ὅ τε γὰρ ἄκων ἀποκτείνας ἀκουσίοις κακοῖς περιπεσεῖν δίκαιός ἐστιν, ὅ τε διαφθαρεῖς οὐδὲν ἦσσαν ἀκουσίως
- 8 ἢ ἐκουσίως βλαφθεῖς ἀδικοῖτ' ἂν ἀτιμώρητος γενόμενος. οὐ δίκαιος δὲ ἀποφυγεῖν ἐστὶ διὰ τὴν ἀτυχίαν τῆς ἀμαρτίας. εἰ μὲν γὰρ ὑπὸ μηδεμιᾶς ἐπιμελείας τοῦ θεοῦ ἢ ἀτυχία γίγνεται, ἀμάρτημα οὔσα τῷ ἀμαρτόντι συμφορὰ δικαία γενέσθαι ἐστίν· εἰ δὲ δὴ θεία κηλὶς τῷ δράσαντι προσπίπτει ἀσεβοῦντι,
- 9 οὐ δίκαιον τὰς θείας προσβολὰς διακωλύειν γίγνεσθαι. ἔλεξαν δὲ καὶ ὥς οὐ πρέπει χρηστὰ ἐπιτηδεύοντας αὐτοὺς κακῶν

3.3.5 ὅς add. Aldus

3.3.7 τίς ὁ βαλὼν; εἰς τίν' ὁ φόμος ἀνήκει Bekker: τίς ὁ βάλλων ἐστίν; ὁ φόμος ὃν ἀνήκει A.V: βαλὼν A<sup>2</sup>

3.3.8 μηδεμιᾶς A<sup>2</sup>: μηδε . . . A: μὴ δὲ δι . . . V

ἀξιοῦσθαι· ἡμεῖς δὲ πῶς ἂν πρέποντα πάσχοιμεν, εἰ μὴδὲν ὑποδεέστερα τούτων μελετῶντες θανάτῳ ζημιούμεθα; φάσκων δὲ ἀναμάρτητος εἶναι, καὶ ἀξιῶν τὰς συμφορὰς τῶν ἀμαρτόντων εἶναι καὶ μὴ εἰς τοὺς ἀναμαρτήτους ἐκτρέπεσθαι, ὑπὲρ ἡμῶν λέγει. ὅ τε γὰρ παῖς μου εἰς οὐδέν· οὐδὲν ἀμαρτῶν, ὑπὸ τούτου τοῦ μεираκίου ἀποθανῶν, ἀδικοῖτ' ἂν ἀτιμώρητος γενόμενος· ἐγὼ τε τοῦδε μᾶλλον ἀναμάρτητος ὦν δεινὰ πείσομαι, ἃ ὁ νόμος ἀποδίδωσί μοι μὴ τυχῶν παρ' ὑμῶν. ὥς δὲ οὐδὲ τῆς ἀμαρτίας οὐδὲ τοῦ ἀκουσίως ἀποκτεῖναι, ἐξ ὧν αὐτοὶ λέγουσιν, ἀπολύεται, ἀλλὰ κοινὰ ἀμφοτέρω ταῦτα ἀμφοῖν αὐτοῖν ἐστὶ, δηλώσω. εἴπερ ὁ παῖς διὰ τὸ ὑπὸ τὴν φορὰν τοῦ ἀκοντίου ὑπελθεῖν καὶ μὴ ἀτρέμας ἐστάναι φονεὺς αὐτὸς αὐτοῦ δίκαιος εἶναι ἐστίν, οὐδὲ τὸ μεираκίον καθαρὸν τῆς αἰτίας ἐστίν, ἀλλ' εἴπερ τούτου μὴ ἀκοντίζοντος ἀλλ' ἀτρέμα ἐστῶτος ἀπέθανεν ὁ παῖς. ἐξ ἀμφοῖν δὲ τοῦ φόνου γενομένου, ὁ μὲν παῖς εἰς αὐτὸν ἀμαρτῶν μᾶλλον ἢ κατὰ τὴν ἀμαρτίαν αὐτὸν τετιμώρηται, τέθνηκε γάρ, ὁ δὲ συλλήπτωρ καὶ κοινωνὸς εἰς τοὺς οὐ προσήκοντας τῆς ἀμαρτίας γενόμενος πῶς δίκαιος ἀζήμιος ἀποφυγεῖν ἐστίν;

ἐκ δὲ τῆς αὐτῶν τῶν ἀπολογουμένων ἀπολογίας μετόχου τοῦ μεираκίου τοῦ φόνου ὄντος, οὐκ ἂν δικαίως οὐδὲ ὀσίως ἀπολύοιτε αὐτόν. οὔτε γὰρ ἡμεῖς, οἱ διὰ τὴν τούτων ἀμαρτίαν διαφθαρέντες, αὐθένται καταγνωσθέντες ὅσια ἀλλ' ἄνῃσι ἂν πάθοιμεν ὑφ' ὑμῶν· οὔθ' οἱ θανατώσαντες ἡμᾶς μὴ εἰργόμενοι τῶν προσηκόντων εὐσεβοῖντ' ἂν ὑπὸ τῶν ἀπολυσάντων τοὺς ἀνοσίους. πάσης δ' ὑπὲρ πάντων τῆς κηλίδος εἰς ὑμᾶς ἀναφερομένης, πολλὴ εὐλάβεια ὑμῖν τούτων ποιητέα ἐστὶ· καταλαβόντες μὲν γὰρ αὐτόν καὶ εἵρξαντες ὦν ὁ νόμος εἵργει καθαροὶ τῶν ἐγκλημάτων ἔσεσθε, ἀπολύσαντες δὲ ὑπαίτιοι καθίστασθε. τῆς οὖν ὑμετέρας εὐσεβείας ἔνεκα καὶ τῶν νόμων ἀπάγοντες τιμωρεῖσθε αὐτόν· αὐτοὶ τε μὴ μεταλάβητε τῆς τούτου μιαρίας, ἡμῖν τε τοῖς γονεῦσιν, οἱ ζῶντες κατορωρύγμεθα ὑπ' αὐτοῦ, δόξῃ γοῦν ἐλαφροτέραν τὴν συμφορὰν καταστήσατε.

## 3.4

- 1 Τοῦτον μὲν εἰκὸς πρὸς τὴν ἑαυτοῦ κατηγορίαν προσέχοντα  
τὸν νοῦν μὴ μαθεῖν τὴν ἀπολογίαν μου, ὑμᾶς δὲ χρή,  
γιγνώσκοντας ὅτι ἡμεῖς μὲν οἱ ἀντίδικοι κατ' εὐνοίαν κρίνοντες  
τὸ πρᾶγμα εἰκότως δίκαια ἐκάτεροι αὐτοὺς οἰόμεθα λέγειν,
- 2 ὑμᾶς δὲ ἴσως ὁρᾷν προσήκει τὰ πραχθέντα· ἐκ τῶν λεγομένων  
γὰρ ἡ ἀλήθεια σκεπτέα αὐτῶν ἐστίν. ἐγὼ δέ, εἰ μὲν τι ψεῦδος  
εἴρηκα, ὁμολογῶ καὶ τὰ ὀρθῶς εἰρημένα προσδιαβάλλειν  
ἄδικα εἶναι· εἰ δὲ ἀληθῆ μὲν, λεπτά δὲ καὶ ἀκριβῆ, οὐκ ἐγὼ ὁ  
λέγων ἀλλ' ὁ πράξας τὴν ἀπέχθειαν αὐτῶν δίκαιος φέρεσθαί  
ἐστι.
- 3 θέλω δὲ πρῶτον ὑμᾶς μαθεῖν, ὅτι οὐκ ἐάν τις φάσκη  
ἀποκτεῖναι, τοῦτ' ἔστιν, ἀλλ' ἐάν τις ἐλεγχθῇ. οὗτος δὲ  
ὁμολογῶν τὸ ἔργον ὡς ἡμεῖς λέγομεν γενέσθαι, ὑπὲρ τοῦ  
ἀποκτείναντος ἀμφισβητεῖ, ὃν ἀδύνατον ἀλλαχόθεν ἢ ἐκ τῶν
- 4 πραχθέντων δηλοῦσθαι. σχετλιάζει δὲ κακῶς ἀκούειν φάσκων  
τὸν παῖδα, εἰ μήτε ἀκοντίσας μήτε ἐπινοήσας αὐθέντης ὧν  
ἀποδείκνυται, καὶ οὐ πρὸς τὰ λεγόμενα ἀπολογεῖται. οὐ γὰρ  
ἀκοντίσαι οὐδὲ βαλεῖν αὐτόν φημι τὸν παῖδα, ἀλλ' ὑπὸ τὴν  
πληγὴν τοῦ ἀκοντίου ὑπελθόντα οὐχ ὑπὸ τοῦ μειρακίου ἀλλ'  
ὑφ' ἑαυτοῦ διαφθαρῆναι· οὐ γὰρ ἀτρεμίζων ἀπέθανε. τῆς δὲ  
διαδρομῆς αἰτίας ταύτης γενομένης, εἰ μὲν ὑπὸ τοῦ  
παιδοτρίβου καλούμενος διέτρεχεν, ὁ παιδοτρίβης ἂν  
ἀποκτείνας αὐτόν εἴη, εἰ δ' ὑφ' ἑαυτοῦ πεισθεὶς ὑπῆλθεν, αὐτὸς
- 5 ὑφ' ἑαυτοῦ διέφθαρται. θέλω δὲ μὴ πρότερον ἐπ' ἄλλον λόγον  
ὀρμῆσαι, ἢ τὸ ἔργον ἔτι φανερώτερον καταστῆσαι, ὁποτέρου  
αὐτῶν ἐστὶ. τὸ μὲν μειράκιον οὐδενὸς μᾶλλον τῶν συμμε-  
λετώντων ἐστὶ τοῦ σκοποῦ ἁμαρτόν, οὐδὲ τῶν  
ἐπικαλουμένων τι διὰ τὴν αὐτοῦ ἁμαρτίαν δέδρακεν· ὁ δὲ παῖς  
οὐ ταῦτά τοις συνθεωμένοις δρῶν, ἀλλ' εἰς τὴν ὁδὸν τοῦ  
ἀκοντίου ὑπελθὼν, σαφῶς δηλοῦται παρὰ τὴν αὐτοῦ

ἁμαρτίαν περισσοτέροις ἀτυχήμασι τῶν ἀτρεμιζόντων  
 περιπεσών. ὁ μὲν γὰρ ἀφείς οὐδὲν ἂν ἥμαρτε, μηδενὸς ὑπὸ τὸ  
 βέλος ὑπελθόντος· αὐτὸς δ' οὐκ ἂν ἐβλήθη μετὰ τῶν θεωμένων  
 ἐστῶς. ὥς δ' οὐδενὸς μᾶλλον τῶν συνακοντιζόντων μέτοχός 6  
 ἐστὶ τοῦ φόνου, διδάξω. εἰ γὰρ διὰ τὸ τοῦτον ἀκοντίζειν ὁ παῖς  
 ἀπέθανε, πάντες ἂν οἱ συμμελετώντες συμπράκτορες εἴησαν  
 τῆς αἰτίας· οὗτοι γὰρ οὐ διὰ τὸ μὴ ἀκοντίζειν οὐκ ἔβαλον  
 αὐτόν, ἀλλὰ διὰ τὸ μηδενὶ ὑπὸ τὸ ἀκόντιον ὑπελθεῖν· ὁ δὲ  
 νεανίσκος οὐδὲν περισσὸν τούτων ἁμαρτῶν, ὁμοίως τούτοις  
 οὐκ ἂν ἔβαλεν αὐτόν ἀτρέμα σὺν τοῖς θεωμένοις ἐστῶτα. ἔστι 7  
 δὲ οὐδὲ τὸ ἀμάρτημα τοῦ παιδὸς μόνον, ἀλλὰ καὶ ἡ ἀφυλαξία.  
 ὁ μὲν γὰρ οὐδένα ὁρῶν διατρέχοντα πῶς ἂν ἐφυλάξατο  
 μηδένα βαλεῖν; ὁ δ' ἰδὼν τοὺς ἀκοντίζοντας εὐπετῶς ἂν  
 ἐφυλάξατο μηδένα μὴ βαλεῖν· ἐξῆν γὰρ αὐτῷ ἀτρέμα ἐστάναι.  
 τὸν δὲ νόμον ὃν παραφέρουσιν ἐπαινεῖν δεῖ. ὀρθῶς γὰρ καὶ 8  
 δικαίως τοὺς ἀκουσίως ἀποκτείναντας ἀκουσίοις παθήμασι  
 κολάζει. τὸ μὲν οὖν μεράκιον ἀναμάρτητον ὃν οὐκ ἂν δικαίως  
 ὑπὲρ τοῦ ἁμαρτόντος κολάζοιτο· ἱκανὸν γὰρ αὐτῷ ἐστὶ τὰς  
 αὐτοῦ ἁμαρτίας φέρειν· ὁ δὲ παῖς ταῖς αὐτοῦ ἁμαρτίαις  
 διαφθαρεῖς, ἅμα ἥμαρτέ τε καὶ ὑφ' ἑαυτοῦ ἐκολάσθη.  
 κεκολασμένου δὲ τοῦ ἀποκτείναντος, οὐκ ἀτιμώρητος ὁ φόνος  
 ἐστί.

ἔχοντός γε δὴ τὴν δίκην τοῦ φονέως, οὐκ ἔαν ἀπολύσητε 9  
 ἡμᾶς, ἀλλ' ἔαν καταλάβητε, ἐνθύμιον ὑπολείψεσθε. ὁ μὲν γὰρ  
 αὐτὸς τὰς ἑαυτοῦ ἁμαρτίας φέρων, οὐδενὶ οὐδὲν  
 προστρόπαιον καταλείψει· ὁ δὲ καθαρὸς τῆς αἰτίας ὅδε ἔαν  
 διαφθαρεῖ, τοῖς καταλαμβάνουσι μεῖζον τὸ ἐνθύμιον  
 γενήσεται. εἰ δὲ αὐθέντης ἐκ τῶν λεγομένων ἐπιδείκνυται, οὐχ  
 ἡμεῖς αὐτῷ οἱ λέγοντες αἰτιοί ἐσμεν, ἀλλ' ἡ πρᾶξις τῶν ἔργων.  
 ὀρθῶς δὲ τῶν ἐλέγχων ἐλεγχόντων τὸν παῖδα αὐθέντην ὄντα, 10  
 ὁ νόμος ἀπολύων ἡμᾶς τῆς αἰτίας τὸν ἀποκτείναντα  
 καταλαμβάνει. μήτε οὖν ἡμᾶς εἰς μὴ προσηκούσας συμφορὰς  
 ἐμβάλητε, μήτε αὐτοὶ ταῖς τούτων ἀτυχίαις βοηθοῦντες  
 ἐναντία τοῦ δαίμονος γινῶτε, ἀλλ' ὥσπερ ὅσιον καὶ δίκαιον,

μεμνημένοι τοῦ πάθους ὅτι διὰ τὸν ὑπὸ τὴν φορὰν τοῦ ἀκοντίου ὑπελθόντα ἐγένετο, ἀπολύετε ἡμᾶς· οὐ γὰρ αἵτιοι τοῦ φόνου ἐσμέν.

#### 4. Τετραλογία Γ

##### 4.1

- 1 Νενόμισται μὲν ὀρθῶς τὰς φονικὰς δίκας περὶ πλείστου τοὺς κρίνοντας ποιεῖσθαι διώκειν τε καὶ μαρτυρεῖν κατὰ τὸ δίκαιον, μήτε τοὺς ἐνόχους ἀφιέντας μήτε τοὺς καθαροὺς εἰς ἀγῶνα
- 2 καθιστάντας. ὃ τε γὰρ θεὸς βουλόμενος ποιῆσαι τὸ ἀνθρώπινον φῦλον τοὺς πρῶτον γενομένους ἔφυσεν ἡμῶν, τροφέας τε παρέδωκε τὴν γῆν καὶ τὴν θάλασσαν, ἵνα μὴ σπάνει τῶν ἀναγκαίων προαποθνήσκοιμεν τῆς γηραιοῦ τελευτῆς. ὅστις οὖν, τούτων ὑπὸ τοῦ θεοῦ ἀξιοθέντος τοῦ βίου ἡμῶν, ἀνόμως τινὰ ἀποκτείνει, ἀσεβεῖ μὲν περὶ τοὺς θεοὺς, συγχεῖ δὲ
- 3 τὰ νόμιμα τῶν ἀνθρώπων. ὃ τε γὰρ ἀποθανόντων, στερόμενος ὧν ὁ θεὸς ἔδωκεν αὐτῷ, εἰκότως θεοῦ τιμωρίαν ὑπολείπει τὴν τῶν ἀλιτηρίων δυσμένειαν, ἣν οἱ παρὰ τὸ δίκαιον κρίνοντες ἢ μαρτυροῦντες, συνασεβοῦντες τῷ ταῦτα δρῶντι, οὐ
- 4 προσῆκον μίasma εἰς τοὺς ἰδίους οἴκους εἰσάγονται· ἡμεῖς τε οἱ τιμωροὶ τῶν διεφθαρμένων, εἰ δι' ἄλλην τινὰ ἔχθραν τοὺς ἀναιτίους διώκοιμεν, τῷ μὲν ἀποθανόντι οὐ τιμωροῦντες δεινούς ἀλιτηρίους ἔξομεν τοὺς τῶν ἀποθανόντων προστροπαίους, τοὺς δὲ καθαροὺς ἀδίκως ἀποκτείνοντες ἔνοχοι τοῦ φόνου τοῖς ἐπιτιμίοις ἐσμέν, ὑμᾶς τε ἄνομα δρᾶν πείθοντες καὶ τοῦ ὑμετέρου ἀμαρτήματος ὑπαίτιοι γιγνόμεθα.
- 5 ἐγὼ μὲν οὖν δεδιὼς ταῦτα, εἰς ὑμᾶς παράγων τὸν ἀσεβήσαντα καθαρὸς τῶν ἐγκλημάτων εἰμί· ὑμεῖς δὲ ἀξίως τῶν προειρημένων τῇ κρίσει προσέχοντες τὸν νοῦν, ἀξίαν δίκην τοῦ πάθους τῷ εἰργασμένῳ ἐπιθέντες, ἅπασαν τὴν πόλιν καθαρὰν τοῦ μίasmatos καταστήσετε.

εἰ μὲν γὰρ ἄκων ἀπέκτεινε τὸν ἄνδρα, ἄξιος ἂν ἦν 6  
 συγγνώμης τυχεῖν τινος· ὕβρει δὲ καὶ ἀκολασίαι παροινῶν εἰς  
 ἄνδρα πρεσβύτην, τύπτων τε καὶ πνίγων ἕως τῆς ψυχῆς  
 ἀπεστέρησεν αὐτόν, ὥς μὲν ἀποκτείνας τοῦ φόνου τοῖς  
 ἐπιτιμίοις ἔνοχός ἐστιν· ὥς δὲ συγγέων ἅπαντα τῶν  
 γεραιτέρων τὰ νόμιμα οὐδενὸς ἀμαρτεῖν, οἷς οἱ τοιοῦτοι  
 κολάζονται, δίκαιός ἐστιν.

ὁ μὲν τοίνυν νόμος ὀρθῶς ὑμῖν τιμωρεῖσθαι παραδίδωσιν 7  
 αὐτόν· τῶν δὲ μαρτύρων ἀκηκόατε, οἳ παρῆσαν παροινούντι  
 αὐτῷ. ὑμᾶς δὲ χρή, τῇ τε ἀνομίαι τοῦ παθήματος ἀμύνοντας  
 τὴν τε ὕβριν κολάζοντας ἀξίως τοῦ πάθους, τὴν βουλευσασαν  
 ψυχὴν ἀνταφελέσθαι αὐτόν.

## 4.2

“Ὅτι μὲν βραχεῖς τοὺς λόγους ἐποίησαντο, οὐ θαυμάζω 1  
 αὐτῶν· οὐ γὰρ ὥς μὴ πάθωσιν ὁ κίνδυνος αὐτοῖς ἐστιν, ἀλλ’ ὥς  
 ἐμὲ μὴ δικαίως δι’ ἔχθραν διαφθείρωσιν. ὅτι δ’ ἐξισοῦν τοῖς  
 μεγίστοις ἐγκλήμασιν ἠθελον τὸ πρᾶγμα, οὗ ὁ ἀποθανὼν  
 αὐτῷ αἴτιος καὶ μᾶλλον ἢ ἐγὼ ἐγένετο, εἰκότως ἂν  
 ἀγανακτεῖν μοι δοκῶ. ἄρχων γὰρ χειρῶν ἀδίκων, καὶ  
 παροινῶν εἰς ἄνδρα πολὺ αὐτοῦ σωφρονέστερον, οὐχ αὐτῷ  
 μόνον τῆς συμφορᾶς, ἀλλὰ καὶ ἐμοὶ τοῦ ἐγκλήματος αἴτιος  
 γέγονεν.

οἶμαι μὲν οὖν ἔγωγε οὔτε δίκαια τούτους οὐθ’ ὅσια δρᾶν 2  
 ἐγκαλοῦντας ἐμοί. τὸν γὰρ ἄρξαντα τῆς πληγῆς, εἰ μὲν  
 σιδήρῳ ἢ λίθῳ ἢ ξύλῳ ἡμυνάμην αὐτόν, ἡδίκουν μὲν οὐδ’  
 οὕτως – οὐ γὰρ ταῦτ’ ἀλλὰ μείζονα καὶ πλείονα δίκαιοι οἱ  
 ἄρχοντες ἀντιπάσχειν εἰσὶ· ταῖς δὲ χερσὶ τυπτόμενος ὑπ’  
 αὐτοῦ, ταῖς χερσὶν ἅπερ ἔπασχον ἀντιδρῶν, πότερα ἡδίκουν;  
 εἶεν· ἐρεῖ δέ “ἀλλ’ ὁ νόμος εἴργων μήτε δικαίως μήτε ἀδίκως 3  
 ἀποκτείνειν ἔνοχον τοῦ φόνου τοῖς ἐπιτιμίοις ἀποφαίνει σε  
 ὄντα· ὁ γὰρ ἀνὴρ τέθνηκεν.” ἐγὼ δὲ δεύτερον καὶ τρίτον οὐκ  
 ἀποκτεῖναί φημι. εἰ μὲν γὰρ ὑπὸ τῶν πληγῶν ὁ ἀνὴρ  
 παραχρῆμα ἀπέθανεν, ὑπ’ ἐμοῦ μὲν δικαίως δ’ ἂν ἐτέθνηκει – οὐ



- γὰρ ταύτᾳ ἀλλὰ μείζονα καὶ πλείονα οἱ ἄρξαντες δίκαιοι  
 4 ἀντιπάσχειν εἰσί· νῦν δὲ πολλαῖς ἡμέραις ὕστερον μοχθηρῶι  
 ἱατρῶι ἐπιτρεφθεὶς διὰ τὴν τοῦ ἱατροῦ μοχθηρίαν καὶ οὐ διὰ  
 τὰς πληγὰς ἀπέθανε. προλεγόντων γὰρ αὐτῶι τῶν ἄλλων  
 ἱατρῶν, εἰ ταύτην τὴν θεραπείαν θεραπεύσοιτο, ὅτι ἰάσιμος ὦν  
 διαφθαρήσοιτο, δι' ὑμᾶς τοὺς συμβούλους διαφθαρεῖς ἐμοὶ  
 5 ἀνόσιον ἔγκλημα προσέβαλεν. ἀπολύει δέ με καὶ ὁ νόμος καθ' ὃν  
 διώκομαι. τὸν γὰρ ἐπιβουλεύσαντα κελεύει φονέα εἶναι. ἐγὼ  
 μὲν οὖν πῶς ἂν ἐπιβουλεύσαιμι αὐτῶι εἰ μὴ καὶ ἐπεβουλεύθην  
 ὑπ' αὐτοῦ; τοῖς γὰρ αὐτοῖς ἀμυνόμενος αὐτὸν καὶ τὰ αὐτὰ  
 δρῶν ἅπερ ἔπασχον, σαφές ὅτι τὰ αὐτὰ ἐπεβούλευσα καὶ  
 6 ἐπεβουλεύθην. εἰ δὲ τις ἐκ τῶν πληγῶν τὸν θάνατον οἰόμενος  
 γενέσθαι φονέα με αὐτοῦ ἡγεῖται εἶναι, ἀντιλογισάσθω ὅτι διὰ  
 τὸν ἄρξαντα αἱ πληγαὶ γενόμεναι τοῦτον αἴτιον τοῦ θανάτου  
 καὶ οὐκ ἐμὲ ἀποφαίνουσιν ὄντα· οὐ γὰρ ἂν ἡμυνάμην μὴ  
 τυπτόμενος ὑπ' αὐτοῦ. ἀπολυόμενος δὲ ὑπὸ τε τοῦ ἑνόμου ὑπὸ  
 τε τοῦ ἄρξαντος τῆς πληγῆς, ἐγὼ μὲν οὐδενὶ τρόπῳ φονεὺς  
 αὐτοῦ εἰμι, ὁ δὲ ἀποθανὼν, εἰ μὲν ἀτυχίαί τεθνηκε, τῇ ἑαυτοῦ  
 ἀτυχίαί κέχρηται ἡτύχησε γὰρ ἄρξας τῆς πληγῆς· εἰ δ'  
 ἀβουλίαί τινί, τῇ ἑαυτοῦ ἀβουλίαί διέφθαρται· οὐ γὰρ εὖ  
 φρονῶν ἔτυπτέ με.
- 7 ὥς μὲν οὖν οὐ δικαίως κατηγοροῦμαι, ἐπιδέδεικταί μοι· ἐθέλω  
 δὲ τοὺς κατηγοροῦντάς μου πᾶσιν οἷς ἐγκαλοῦσιν ἐνόχους  
 αὐτοὺς ὄντας ἀποδείξαι. καθαρῶι μὲν μοι τῆς αἰτίας ὄντι φόνον  
 ἐπιβουλεύοντες, ἀποστεροῦντες δέ με τοῦ βίου ὃν ὁ θεὸς  
 παρέδωκέ μοι, περὶ τὸν θεὸν ἀσεβοῦσιν· ἀδίκως δὲ θάνατον  
 ἐπιβουλεύοντες τὰ τε νόμιμα συγχέουσιν φονεῖς τέ μου  
 γίννονται· ἀνοσίως δ' ἀποκτεῖναι ὑμᾶς με πείθοντες καὶ τῆς  
 8 ὑμετέρας εὐσεβείας αὐτοὶ φονεῖς εἰσι. τούτοις μὲν οὖν ὁ θεὸς  
 ἐπιθείη τὴν δίκην· ὑμᾶς δὲ χρή τὸ ὑμέτερον σκοποῦντας  
 ἀπολῦσαί με μᾶλλον ἢ καταλαβεῖν βούλεσθαι. ἀδίκως μὲν γὰρ  
 ἀπολυθεὶς, διὰ τὸ μὴ ὀρθῶς ὑμᾶς διδαχθῆναι ἀποφυγῶν, τοῦ  
 μὴ διδάξαντος καὶ οὐχ ὑμέτερον τὸν προστρόπαιον τοῦ

ἀποθανόντος καταστήσω· μὴ ὀρθῶς δὲ καταληφθεὶς ὑφ' ὑμῶν,  
 ὑμῖν καὶ οὐ τούτῳ τὸ μήνιμα τῶν ἀλιτηρίων προστρίψομαι.  
 ταῦτ' οὐκ εἰδότες, τουτοισὶ τὸ ἀσέβημα τοῦτο ἀναθέντες, αὐτοὶ 9  
 τε καθαροὶ τῆς αἰτίας γένεσθε, ἐμέ τε ὁσίως καὶ δικαίως  
 ἀπολύετε· οὕτω γὰρ ἂν καθαρώτατοι πάντες οἱ πολῖται  
 εἴημεν.

## 4.3

Τοῦτόν τε οὐ θαυμάζω ἀνόσια δράσαντα ὅμοια οἷς εἴργασται 1  
 λέγειν, ὑμῖν τε συγγιγνώσκω βουλομένοις τὴν ἀκρίβειαν τῶν  
 πραχθέντων μαθεῖν τοιαῦτα ἀνέχεσθαι ἀκούοντας αὐτοῦ, ἃ  
 ἐκβάλλεσθαι ἄξιόν ἐστι. τὸν γὰρ ἄνδρα ὁμολογῶν τύπτειν τὰς  
 πληγὰς ἐξ ὧν ἀπέθανεν, αὐτὸς μὲν τοῦ τεθνηκότος οὐ φησι  
 φονεὺς εἶναι, ἡμᾶς δὲ τοὺς τιμωροῦντας αὐτῷ ζῶν τε καὶ  
 βλέπων φονέας αὐτοῦ φησιν εἶναι. θέλω δὲ καὶ τᾶλλα  
 παραπλήσια ἀπολογηθέντα τούτοις ἐπιδειξαι αὐτόν.

εἶπε δὲ πρῶτον μὲν, εἰ καὶ ἐκ τῶν πληγῶν ἀπέθανεν ὁ ἀνὴρ, ὥς 2  
 οὐκ ἀπέκτεινεν αὐτόν· τὸν γὰρ ἄρξαντα τῆς πληγῆς, τοῦτον  
 αἴτιον τῶν πραχθέντων γενόμενον καταλαμβάνεσθαι ὑπὸ τοῦ  
 νόμου, ἄρξαι δὲ τὸν ἀποθανόντα. μάθετε δὴ πρῶτον μὲν ὅτι  
 ἄρξαι καὶ παροινεῖν τοὺς νεωτέρους τῶν πρεσβυτέρων  
 εἰκότερόν ἐστι· τοὺς μὲν γὰρ ἢ τε μεγαλοφροσύνη τοῦ γένους ἢ τε  
 ἀκμὴ τῆς ῥώμης ἢ τε ἀπειρία τῆς μέθης ἐπαίρει τῷ θυμῷ  
 χαρίζεσθαι, τοὺς δὲ ἢ τε ἐμπειρία τῶν παροινουμένων ἢ τε  
 ἀσθένεια τοῦ γήρως ἢ τε δύναμις τῶν νέων φοβοῦσα  
 σωφρονίζει. ὥς δὲ οὐδὲ τοῖς αὐτοῖς ἀλλὰ τοῖς ἐναντιωτάτοις 3  
 ἡμύνατο αὐτόν, αὐτὸ τὸ ἔργον σημαίνει· ὁ μὲν γὰρ ἀκμαζούσῃ  
 τῇ ῥώμῃ τῶν χειρῶν χρώμενος ἀπέκτεινεν· ὁ δὲ ἀδυνάτως τὸν  
 κρείσσονα ἀμυνόμενος, οὐδὲ σημῖον οὐδὲν ὧν ἡμύνατο  
 ὑπολιπὼν ἀπέθανεν. εἰ δὲ ταῖς χερσὶν ἀπέκτεινε καὶ οὐ σιδήρῳ,  
 ὅσον αἱ χεῖρες οἰκειότεραι τοῦ σιδήρου τούτῳ εἰσὶ, τοσοῦτῳ  
 μᾶλλον φονεὺς ἐστίν. ἐτόλμησε δὲ εἰπεῖν ὥς ὁ ἄρξας τῆς πληγῆς 4  
 καὶ μὴ διαφθείρας μᾶλλον τοῦ ἀποκτείναντος φονεὺς ἐστὶ  
 τοῦτον γὰρ βουλευτὴν τοῦ θανάτου φησὶ γενέσθαι. ἐγὼ δὲ πολὺ

- τάναντία τούτων φημί. εἰ γὰρ αἱ χεῖρες ἃ διανοούμεθα ἐκάστωι ἡμῶν ὑπουργοῦσιν, ὁ μὲν πατάξας καὶ μὴ ἀποκτείνας τῆς πληγῆς βουλευτῆς ἐγένετο, ὁ δὲ θανασίμως τύπτων τοῦ θανάτου· ἐκ γὰρ ὧν ἐκεῖνος διανοηθεὶς ἔδρασεν, ὁ ἀνὴρ τέθνηκεν. ἔστι δὲ ἢ μὲν ἀτυχία τοῦ πατάξαντος, ἢ δὲ συμφορὰ τοῦ παθόντος. ὁ μὲν γὰρ ἐξ ὧν ἔδρασεν ἐκεῖνος διαφθαρεῖς, οὐ τῇ ἑαυτοῦ ἀμαρτίαι ἀλλὰ τῇ τοῦ πατάξαντος χρησάμενος ἀπέθανεν· ὁ δὲ μείζω ὧν ἤθελε πράξας, τῇ ἑαυτοῦ ἀτυχίαι
- 5 ὃν οὐκ ἤθελεν ἀπέκτεινεν. ὑπὸ δὲ τοῦ ἱατροῦ φάσκων αὐτὸν ἀποθανεῖν, θαυμάζω ὅτι [οὐχ] ὑφ' ἡμῶν τῶν συμβουλευσάντων ἐπιτρεφθῆναί φησιν αὐτὸν διαφθαρῆναι. καὶ γὰρ ἂν εἰ μὴ ἐπετρέψαμεν, ὑπ' ἀθεραπείας ἂν ἔφη διαφθαρῆναι αὐτόν. εἰ δέ τοι καὶ ὑπὸ τοῦ ἱατροῦ ἀπέθανεν, ὥς οὐκ ἀπέθανεν, ὁ μὲν ἱατρὸς οὐ φονεὺς αὐτοῦ ἐστίν, ὁ γὰρ νόμος ἀπολύει αὐτόν, διὰ δὲ τὰς τούτου πληγὰς ἐπιτρεψάντων ἡμῶν αὐτῷ, πῶς ἂν ἄλλος τις ἢ ὁ βιασάμενος ἡμᾶς χρῆσθαι αὐτῷ φονεὺς εἴη ἄν;
- 6 οὕτω δὲ φανερώς ἐκ παντὸς τρόπου ἐλεγχόμενος ἀποκτεῖναι τὸν ἄνδρα, εἰς τοῦτο τόλμης καὶ ἀναιδεΐας ἤκει, ὥστ' οὐκ ἄρκοῦν αὐτῷ ἐστίν ὑπὲρ τῆς αὐτοῦ ἀσεβείας ἀπολογεῖσθαι, ἀλλὰ καὶ ἡμᾶς, οἳ τὸ τούτου μίasma ἐπεξερχόμεθα, ἀθέμιστα καὶ ἀνόσια
- 7 δρᾶν φησι. τούτῳ μὲν οὖν πρέπει καὶ ταῦτα καὶ ἔτι τούτων δεινότερα λέγειν, τοιαῦτα δεδρακότι· ἡμεῖς δὲ τὸν θάνατον φανερόν ἀποδεικνύντες, τὴν τε πληγὴν ὁμολογουμένην ἐξ ἧς ἀπέθανε, τὸν τε νόμον εἰς τὸν πατάξαντα τὸν φόνον ἀνάγοντα, ἀντὶ τοῦ ἀποθανόντος ἐπισκήπτομεν ὑμῖν, τῷ τούτου φόνῳ τὸ μῆνιμα τῶν ἀλιτηρίων ἀκεσαμένους πᾶσαν τὴν πόλιν καθάραν τοῦ μιάσματος καταστήσαι.

## 4-4

- 1 Ὁ μὲν ἀνὴρ, οὐ καταγνοὺς αὐτὸς αὐτοῦ, ἀλλὰ τὴν σπουδὴν τῶν κατηγορῶν φοβηθεὶς, ὑπαπέστη· ἡμῖν δὲ τοῖς φίλοις ζῶντι

4.3.5 οὐχ *A*<sup>2</sup>*N*: om. *A*: del. Hemstege

4.3.7 ἀποθανόντος *N*: παθόντος *A*

ἢ ἀποθανόντι εὐσεβέστερον ἀμύνειν αὐτῷ. ἄριστα μὲν οὖν αὐτὸς ἂν ὑπὲρ αὐτοῦ ἀπελογεῖτο· ἐπεὶ δὲ τάδε ἀκινδυνότερα ἔδοξεν εἶναι, ἡμῖν, οἷς μέγιστον ἂν πένθος γένοιτο στερηθεῖσιν αὐτοῦ, ἀπολογητέον.

δοκεῖ δέ μοι περὶ τὸν ἄρξαντα τῆς πληγῆς τὸ ἀδίκημα εἶναι. ὁ 2  
μὲν οὖν διώκων οὐκ εἰκόσι τεκμηρίοις χρώμενος τοῦτον τὸν ἄρξαντά φησιν εἶναι. εἰ μὲν γὰρ ὥσπερ βλέπειν μὲν τοῖν ὀφθαλμοῖν, ἀκούειν δὲ τοῖς ὠσίν, οὕτω κατὰ φύσιν ἦν ὑβρίζειν μὲν τοὺς νέους, σωφρονεῖν δὲ τοὺς γέροντας, οὐδὲν ἂν τῆς ὑμετέρας κρίσεως ἔδει· αὐτὴ γὰρ ἡ ἡλικία τῶν νέων κατέκρινε· νῦν δὲ πολλοὶ μὲν νέοι σωφρονοῦντες, πολλοὶ δὲ πρεσβῦται παροινοῦντες, οὐδὲν μᾶλλον τῷ διώκοντι ἢ τῷ φεύγοντι τεκμήριον γίνονται. κοινοῦ δὲ τοῦ τεκμηρίου ἡμῖν ὄντος 3  
τούτῳ, τῷ παντὶ προέχομεν· οἱ γὰρ μάρτυρες τοῦτόν φασιν ἄρξαι τῆς πληγῆς. ἄρξαντος δὲ τούτου, καὶ τῶν ἄλλων ἀπάντων κατηγορουμένων ἀπολύεται τῆς αἰτίας. εἴ τε γὰρ ὁ πατάξας, διὰ τὴν πληγὴν βιασάμενος ὑμᾶς ἐπιτρεφθῆναι ἰατρῷ, μᾶλλον τοῦ ἀποκτείναντος φονεὺς ἐστίν, ὁ ἄρξας τῆς πληγῆς φονεὺς γίγνεται. οὗτος γὰρ ἠνάγκασε τὸν τε ἀμυνόμενον ἀντιτύπτειν τὸν τε πληγέντα ἐπὶ τὸν ἰατρὸν ἐλθεῖν. ἀνόσια γὰρ ὅ γε διωκόμενος πάθοι, εἰ μήτε ἀποκτείνας ὑπὲρ τοῦ ἀποκτείναντος μήτε ἄρξας ὑπὲρ τοῦ ἄρξαντος φονεὺς ἔσται. ἔστι δὲ οὐδὲ ὁ ἐπιβουλεύσας οὐδὲν μᾶλλον ὁ 4  
διωκόμενος τοῦ διώκοντος. εἰ γὰρ ὁ μὲν ἄρξας τῆς πληγῆς τύπτειν καὶ μὴ ἀποκτείνειν διανοήθη, ὁ δὲ ἀμυνόμενος ἀποκτεῖναι, οὗτος ἂν ὁ ἐπιβουλεύσας εἴη. νῦν δὲ καὶ ὁ ἀμυνόμενος τύπτειν καὶ οὐκ ἀποκτείνειν διανοηθεὶς ἤμαρτεν, εἰς ἃ οὐκ ἠβούλετο πατάξας. τῆς μὲν οὖν πληγῆς βουλευτῆς 5  
ἐγένετο, τὸν δὲ θάνατον πῶς ἂν ἐπεβούλευσεν, ὅς γε ἀκουσίως ἐπάταξεν; οἰκεῖον δὲ καὶ τὸ ἀμάρτημα τῷ ἄρξαντι μᾶλλον ἢ τῷ ἀμυνομένῳ ἐστίν. ὁ μὲν γὰρ ἃ ἔπασχεν ἀντιδρᾶν ζητῶν, ὑπ' ἐκείνου βιαζόμενος ἐξήμαρτεν· ὁ δὲ διὰ τὴν ἑαυτοῦ ἀκολασίαν πάντα δρῶν καὶ πάσχων, καὶ τῆς ἑαυτοῦ καὶ τῆς

- 6 ἐκείνου ἀμαρτίας (αἴτιος ὧν) δίκαιος φονεὺς εἶναί ἐστιν. ὥς δὲ οὐδὲ κρείσσονως ἀλλὰ πολὺ ὑποδεεστέρας ὧν ἔπασχεν ἡμύνετο, διδάξω. ὁ μὲν ὑβρίζων καὶ παροινῶν πάντ' ἔδρα καὶ οὐδὲν ἡμύνετο· ὁ δὲ μὴ πάσχειν ἀλλ' ἀπωθεῖσθαι ζητῶν, ἃ τε ἔπασχεν ἀκουσίως ἔπασχεν, ἃ τ' ἔδρασε τὰ παθήματα βουλόμενος διαφυγεῖν ἐλασσόνως ἢ κατ' ἀξίαν τὸν ἄρξαντα
- 7 ἡμύνετο, καὶ οὐκ ἔδρα. εἰ δὲ κρείσσων ὧν τὰς χεῖρας κρείσσονως ἡμύνετο ἢ ἔπασχεν, οὐδ' οὕτω δίκαιος ὑφ' ὑμῶν καταλαμβάνεσθαι ἐστι. τῶι μὲν γὰρ ἄρξαντι πανταχοῦ μεγάλα ἐπιτίμια ἐπίκειται, τῶι δὲ ἀμυνομένῳ οὐδαμοῦ οὐδὲν
- 8 ἐπιτίμιον γέγραπται. πρὸς δὲ τὸ μήτε δικαίως μήτε ἀδίκως ἀποκτείνειν ἀποκέκριται· οὐ γὰρ ὑπὸ τῶν πληγῶν ἀλλ' ὑπὸ τοῦ ἱατροῦ ὁ ἀνὴρ ἀπέθανεν, ὡς οἱ μάρτυρες μαρτυροῦσιν. ἐστὶ δὲ καὶ ἡ τύχη τοῦ ἄρξαντος καὶ οὐ τοῦ ἀμυνομένου. ὁ μὲν γὰρ ἀκουσίως πάντα δράσας καὶ παθὼν ἀλλοτρίαι τύχηι κέχρηται· ὁ δὲ ἐκουσίως πάντα δράσας, ἐκ τῶν αὐτοῦ ἔργων τὴν τύχην
- 9 προσαγόμενος, τῇ αὐτοῦ ἀτυχίᾳ ἤμαρτεν. ὥς μὲν οὖν οὐδενὶ ἔνοχος τῶν κατηγορημένων ὁ διωκόμενός ἐστιν, ἀποδέδεικται. εἰ δέ τις κοινὴν μὲν τὴν πρᾶξιν, κοινὴν δὲ τὴν ἀτυχίαν αὐτῶν ἡγούμενος εἶναι, μηδὲν ἀπολύσιμον μᾶλλον ἢ καταλήψιμον ἐκ τῶν λεγομένων γιγνώσκει αὐτὸν ὄντα, καὶ οὕτως ἀπολύειν μᾶλλον ἢ καταλαμβάνειν δίκαιός ἐστι. τόν τε γὰρ διώκοντα οὐ δίκαιον καταλαμβάνειν, μὴ σαφῶς διδάξαντα ὅτι ἀδικεῖται· τόν τε φεύγοντα ἀνόσιον ἀλῶναι, μὴ φανερώς ἐλεγχθέντα ἃ ἐπικαλεῖται.
- 10 οὕτως δὲ ἐκ παντὸς τρόπου τῶν ἐγκλημάτων ἀπολυομένου τοῦ ἀνδρός, ἡμεῖς ὀσιώτερον ὑμῖν ἐπισκῆπτομεν ὑπὲρ αὐτοῦ, μὴ τὸν φονέα ζητοῦντας κολάζειν τὸν καθαρὸν ἀποκτείνειν. ὅ τε γὰρ ἀλιτῆριος τοῦ ἀποθανόντος οὐδὲν ἦσσαν τοῖς αἰτίοις προστρόπαιος ἔσται, οὗτός τε ἀνοσίως διαφθαρεῖς διπλάσιον καθίστησι τὸ μίasma τῶν ἀλιτηρίων τοῖς

4.4.6 κρείσσονως . . . ὑποδεεστέρας Reiske: κρεῖσσον ὧν . . . ὑποδεέστερος AN: κρείσσων A<sup>2</sup>

4.4.10 ἀλιτῆριος Thalheim: ἀποκτείνας AN

ἀποκτείνασιν αὐτόν. ταῦτα οὖν δεδιότες, τὸν μὲν καθαρὸν 11  
 ὑμέτερον ἡγεῖσθε εἶναι ἀπολύειν τῆς αἰτίας, τὸν δὲ μιαρὸν τῶι  
 χρόνῳ ἀποδόντες φῆναι τοῖς ἔγγιστα τιμωρεῖσθαι  
 ὑπολείπετε· οὕτω γὰρ ἂν δικαιοτάτα καὶ ὀσιώτατα πράξαιτ'  
 ἄν.

### 5. Περὶ τοῦ Ἡρώιδου φόνου

Ἐβουλόμην μὲν, ὦ ἄνδρες, τὴν δύναμιν τοῦ λέγειν καὶ τὴν 1  
 ἐμπειρίαν τῶν πραγμάτων ἐξ ἴσου μοι καθεστάναι τῇ τε  
 συμφορᾷ καὶ τοῖς κακοῖς τοῖς γεγενημένοις· νῦν δὲ τοῦ μὲν  
 πεπείραμαι πέραι τοῦ προσήκοντος, τοῦ δὲ ἐνδεής εἰμι μᾶλλον  
 τοῦ συμφέροντος. οὗ μὲν γάρ με ἔδει κακοπαθεῖν τῶι σώματι 2  
 μετὰ τῆς αἰτίας τῆς οὐ προσηκούσης, ἐνταυθοῖ οὐδέν με  
 ὠφέλησεν ἡ ἐμπειρία· οὗ δέ με δεῖ σωθῆναι μετὰ τῆς ἀληθείας  
 εἰπόντα τὰ γενόμενα, ἐν τούτῳ με βλάπτει ἡ τοῦ λέγειν  
 ἀδυνασία. πολλοὶ μὲν γὰρ ἤδη τῶν οὐ δυναμένων λέγειν, 3  
 ἄπιστοι γενόμενοι τοῖς ἀληθέσιν, αὐτοῖς τούτοις ἀπώλονται, οὐ  
 δυνάμενοι δηλῶσαι αὐτά· πολλοὶ δὲ τῶν δυναμένων λέγειν  
 πιστοὶ γενόμενοι τῶι ψεύδεσθαι, τούτῳ ἐσώθησαν, διότι  
 ἐψεύσαντο. ἀνάγκη οὖν, ὅταν τις ἄπειρος ᾖ τοῦ ἀγωνίζεσθαι,  
 ἐπὶ τοῖς τῶν κατηγορῶν λόγοις εἶναι μᾶλλον ἢ ἐπ' αὐτοῖς τοῖς  
 ἔργοις καὶ τῇ ἀληθείᾳ τῶν πραγμάτων. ἐγὼ οὖν, ὦ ἄνδρες, 4  
 αἰτήσομαι ὑμᾶς οὐχ ἅπερ οἱ πολλοὶ τῶν ἀγωνιζομένων  
 ἀκροᾶσθαι σφῶν αὐτῶν αἰτοῦνται, σφίσι μὲν αὐτοῖς  
 ἀπιστοῦντες, ὑμῶν δὲ προκατεγνωκότες ἄδικόν τι – εἰκὸς γὰρ  
 ἐν ἀνδράσι γε ἀγαθοῖς καὶ ἄνευ τῆς αἰτήσεως τὴν ἀκρόασιν  
 ὑπάρχειν τοῖς φεύγουσιν, οὐπερ καὶ οἱ διώκοντες ἔτυχον ἄνευ  
 αἰτήσεως· τάδε δὲ δέομαι ὑμῶν, τοῦτο μὲν ἐάν τι τῇ γλώσσῃ 5  
 ἀμάρτω, συγγνώμην ἔχειν μοι, καὶ ἡγεῖσθαι ἀπειρίαί αὐτὸ  
 μᾶλλον ἢ ἀδικαίᾳ ἡμαρτῆσθαι, τοῦτο δὲ ἐάν τι ὀρθῶς εἴπω,  
 ἀληθείᾳ μᾶλλον ἢ δεινότητι εἰρησθαι. οὐ γὰρ δίκαιον οὐτ'  
 ἔργῳ ἀμαρτόντα διὰ ῥήματα σωθῆναι, οὐτ' ἔργῳ ὀρθῶς

- πράξαντα διὰ ῥήματα ἀπολέσθαι· τὸ μὲν γὰρ ῥῆμα τῆς  
6 γλώσσης ἀμάρτημά ἐστι, τὸ δὲ ἔργον τῆς γνώμης. ἀνάγκη δὲ  
κινδυνεύοντα περὶ αὐτῷ καὶ πού τι καὶ ἐξαμαρτεῖν. οὐ γὰρ  
μόνον τῶν λεγομένων ἀνάγκη ἐνθυμεῖσθαι, ἀλλὰ καὶ τῶν  
ἐσομένων· ἅπαντα γὰρ τὰ ἐν ἀδήλῳ ἔτ' ὄντα ἐπὶ τῇ τύχῃ  
7 μᾶλλον ἀνάκειται ἢ τῇ προνοίᾳ. ταῦτ' οὖν ἐκπληξιν πολλὴν  
παρέχειν ἀνάγκη ἐστὶ τῷ κινδυνεύοντι. ὁρῶ γὰρ ἔγωγε καὶ  
τοὺς πάνυ ἐμπείρους τοῦ ἀγωνίζεσθαι πολλῶι χειρὸν ἑαυτῶν  
λέγοντας, ὅταν ἐν τινι κινδύνῳ ᾧσιν· ὅταν δ' ἄνευ κινδύνων τι  
διαπράσσωσιν, μᾶλλον ὀρθομένους. ἡ μὲν οὖν αἵτησις, ᾧ  
ἄνδρες, καὶ νομίμως καὶ ὁσίως ἔχουσα, καὶ ἐν τῷ ὑμετέρῳ  
δικαίῳ οὐχ ἤϊσον ἢ ἐν τῷ ἐμῷ· περὶ δὲ τῶν κατηγορημένων  
ἀπολογήσομαι καθ' ἕκαστον.
- 8 πρῶτον μὲν οὖν, ὡς παρανομώτατα καὶ βιαιότατα εἰς τόνδε  
τὸν ἀγῶνα καθέστηκα, τοῦτο ὑμᾶς διδάξω, οὐ τῷ φεύγειν ἂν  
τὸ πλῆθος τὸ ὑμέτερον, ἐπεὶ καὶ ἄνωμότοις ὑμῖν καὶ μὴ κατὰ  
νόμον μηδὲνα ἐπιτρέψαιμι περὶ τοῦ σώματος τοῦ ἐμοῦ  
διαψηφίσασθαι, ἕνεκά γε τοῦ πιστεύειν, ἐμοί τε μηδὲν  
ἐξημαρτῆσθαι εἰς τόδε τὸ πρᾶγμα καὶ ὑμᾶς γνώσεσθαι τὰ  
δίκαια, ἀλλ' ἵνα ἡ τεκμήρια ὑμῖν καὶ τῶν ἄλλων πραγμάτων  
9 καὶ τῶν εἰς ἐμὲ ἢ τούτων βιαιότης καὶ παρανομία. πρῶτον μὲν  
γὰρ κακοῦργος ἐνδεδειγμένος φόνου δίκην φεύγω, ὃ οὐδεὶς  
πώποτ' ἔπαθε τῶν ἐν τῇ γῇ ταύτῃ. καὶ ὡς μὲν οὐ κακοῦργός  
εἰμι οὐδ' ἔνοχος τῷ τῶν κακούργων νόμῳ, αὐτοὶ οὗτοι  
τούτου γε μάρτυρες γεγέννηται. περὶ γὰρ τῶν κλεπτῶν καὶ  
λωποδυτῶν ὁ νόμος κεῖται, ᾧ οὐδὲν ἐμοὶ προσὸν ἀπέδειξαν.  
οὕτως εἰς γε ταύτην τὴν ἀπαγωγὴν νομιμωτάτην καὶ  
10 δικαιοτάτην πεποιήκασιν ὑμῖν τὴν ἀποψήφισίν μου. φασὶ δὲ αὖ  
τό γε ἀποκτείνειν μέγα κακούργημα εἶναι, καὶ ἐγὼ ὁμολογῶ  
μέγιστόν γε, καὶ τὸ ἱεροσυλεῖν καὶ τὸ προδιδόναι τὴν πόλιν·  
ἀλλὰ χωρὶς περὶ αὐτῶν ἐκάστου οἱ νόμοι κεῖνται. ἐμοὶ δὲ  
πρῶτον μὲν, οὗ τοῖς ἄλλοις εἵργεσθαι προαγορεύουσι τοῖς τοῦ  
φόνου φεύγουσι τὰς δίκας, ἐνταυθοῖ πεποιήκασιν τὴν κρίσιν ἐν  
τῇ ἀγορᾷ· ἔπειτα τίμησίν μοι ἐποίησαν, ἀνταποθανεῖν τοῦ  
νόμου κειμένου τὸν ἀποκτείναντα, οὐ τοῦ ἐμοὶ συμφέροντος

ἔνεκα, ἀλλὰ τοῦ σφίσιν αὐτοῖς λυσιτελοῦντος, καὶ ἐνταῦθα  
 ἔλασσον ἔνειμαν [ἄν] τῷ τεθνηκότι τῶν ἐν τῷ νόμῳ κειμένων·  
 οὐ δ' ἔνεκα, γνῶσεσθε προϊόντος τοῦ λόγου. ἔπειτα δέ, ὁ 11  
 πάντας οἶμαι ὑμᾶς ἐπίστασθαι, ἅπαντα τὰ δικαστήρια ἐν  
 ὑπαίθρῳ δικάζει τὰς δίκας τοῦ φόνου, οὐδενὸς ἄλλου ἔνεκα ἢ  
 ἵνα τοῦτο μὲν οἱ δικασταὶ μὴ ἴωσιν εἰς τὸ αὐτὸ τοῖς μὴ καθαροῖς  
 τὰς χεῖρας, τοῦτο δὲ ὁ διώκων τὴν δίκην τοῦ φόνου ἵνα μὴ  
 ὁμωρόφιός γίγνηται τῷ αὐθέντῃ. σὺ δὲ τοῦτο μὲν παρελθὼν  
 τοῦτον τὸν νόμον τούναντίον τοῖς ἄλλοις πεποίηκας· τοῦτο δὲ  
 δέον σε διομόσασθαι ὄρκον τὸν μέγιστον καὶ ἰσχυρότατον,  
 ἐξώλειαν σαυτῷ καὶ γένει καὶ οἰκίᾳ τῇ σῇ ἐπαρώμενον, ἢ μὴν  
 μὴ ἄλλα κατηγορήσῃς ἐμοῦ ἢ εἰς αὐτὸν τὸν φόνον, ὥς ἔκτεινα,  
 ἐν ᾧ οὐτ' ἂν κακὰ πολλὰ εἰργασμένος ἡλίσκωμην ἄλλῳ ἢ  
 αὐτῷ τῷ πράγματι, οὐτ' ἂν πολλὰ ἀγαθὰ εἰργασμένος  
 τούτοις ἂν ἐσωιζόμην τοῖς ἀγαθοῖς· ἃ σὺ παρελθὼν, αὐτὸς 12  
 σεαυτῷ νόμους ἐξευρών, ἀνώμοτος μὲν αὐτὸς ἐμοῦ  
 κατηγορεῖς, ἀνώμοτοι δὲ οἱ μάρτυρες καταμαρτυροῦσι, δέον  
 αὐτοὺς τὸν αὐτὸν ὄρκον σοὶ διομοσαμένους καὶ ἀπτομένους  
 τῶν σφαγίων καταμαρτυρεῖν ἐμοῦ. ἔπειτα κελεύεις τοὺς  
 δικαστὰς ἀνωμότοις πιστεῦσαντας τοῖς μαρτυροῦσι φόνου  
 δίκην καταγνῶναι, οὓς σὺ αὐτὸς ἀπίστους κατέστησας  
 παρελθὼν τοὺς κειμένους νόμους, καὶ ἡγῇ χρῆναι αὐθις τὴν σὴν  
 παρανομίαν κρείσσω γενέσθαι αὐτῶν τῶν νόμων. λέγεις δὲ ὥς 13  
 οὐκ ἂν παρέμεινα εἰ ἐλελύμην, ἀλλ' ὠιχόμην ἂν ἀπιών, ὥσπερ εἰ  
 ἄκοντά με ἀναγκάσας εἰσελθεῖν εἰς τὴν γῆν ταύτην. καίτοι ἐμοὶ  
 εἰ μὴδὲν διέφερε στέρεσθαι τῇσδε τῆς πόλεως, ἴσον ἦν μοι καὶ  
 προσκληθέντι μὴ ἐλθεῖν, ἀλλ' ἐρήμην ὀφλεῖν τὴν δίκην, τοῦτο δ'  
 ἀπολογησαμένῳ τὴν προτέραν ἐξεῖναι ἐξελθεῖν· ἅπασι γὰρ  
 τοῦτο κοινόν ἐστι. σὺ δέ, ὁ τοῖς ἄλλοις "Ἑλλησι κοινόν ἐστιν,  
 ἰδίαί ζητεῖς με μόνον ἀποστερεῖν, αὐτὸς σαυτῷ νόμον θέμενος.  
 καίτοι τοὺς γε νόμους οἱ κεῖνται περὶ τῶν τοιούτων, πάντας ἂν 14  
 οἶμαι ὁμολογήσαι κάλλιστα νόμων ἀπάντων κεῖσθαι καὶ  
 ὁσιώτατα. ὑπάρχει μὲν γε αὐτοῖς ἀρχαιοτάτοις εἶναι ἐν τῇ γῇ  
 ταύτῃ, ἔπειτα τοὺς αὐτοὺς αἰεὶ περὶ τῶν αὐτῶν, ὅπερ μέγιστόν  
 ἐστὶ σημεῖον νόμων καλῶς κειμένων· ὁ γὰρ χρόνος καὶ ἡ



- ἐμπειρία τὰ μὴ καλῶς ἔχοντα ἐκδιδάσκει τοὺς ἀνθρώπους. ὥστε οὐ δεῖ ὑμᾶς ἐκ τῶν τοῦ κατηγοροῦ λόγων τοὺς νόμους καταμανθάνειν, εἰ καλῶς ὑμῖν κεῖνται ἢ μή, ἀλλ' ἐκ τῶν νόμων τοὺς τῶν κατηγορῶν λόγους, εἰ ὀρθῶς καὶ νομίμως ὑμᾶς
- 15** διδάσκουσι τὸ πρᾶγμα ἢ οὐ. οὕτως οἷ γε νόμοι κάλλιστα κεῖνται οἱ περὶ φόνου, οὓς οὐδεὶς πώποτε ἐτόλμησε κινήσαι· σὺ δὲ μόνος δὴ τετόλμηκας γενέσθαι νομοθέτης ἐπὶ τὰ πονηρότερα, καὶ ταῦτα παρελθὼν ζητεῖς με ἀδίκως ἀπολέσαι. ἃ δὲ σὺ παρανομεῖς, αὐτὰ ταῦτά μοι μέγιστα μαρτύριά ἐστιν· εὖ γὰρ ἤδεις ὅτι οὐδεὶς ἂν ἦν σοι ὃς ἐκείνων τὸν ὄρκον διομοσάμενος
- 16** ἐμοῦ κατεμαρτύρησεν. ἔπειτα δὲ οὐχ ὥς πιστεύων τῷ πράγματι ἀναμφισβητήτως ἓνα τὸν ἄγῶνα περὶ τοῦ πράγματος ἐποίησω, ἀλλὰ ἀμφισβήτησιν καὶ λόγον ὑπελίπου ὥς καὶ τοῖσδε τοῖς δικασταῖς ἀπιστήσων. ὥστε μηδὲν μοι ἐνθάδε [μηδὲ] πλέον εἶναι μηδ' ἀποφυγόντι, ἀλλ' ἐξεῖναί σοι λέγειν ὅτι κακοῦργος ἀπέφυγον, ἀλλ' οὐ τοῦ φόνου τὴν δίκην· ἐλὼν δ' αὖ ἀξιώσεις με ἀποκτεῖναι ὥς τοῦ φόνου τὴν δίκην ὠφληκότα. καίτοι πῶς ἂν εἴη τρῦτων δεινότερα μηχανήματα, εἰ ὑμῖν μὲν ἅπαξ τουτουσὶ πείσασι κατείργασται ἃ βούλεσθε, ἐμοὶ δ' ἅπαξ ἀποφυγόντι ὁ αὐτὸς κίνδυνος
- 17** ὑπολείπεται; ἔτι δὲ μάλ' ἐδέθην, ὦ ἄνδρες, παρανομώτατα ἀπάντων ἀνθρώπων. ἐθέλοντος γὰρ μου ἐγγυητὰς τρεῖς καθιστάναι κατὰ τὸν νόμον, οὕτως οὗτοι διεπράξαντο ὥστε τοῦτο μὴ ἐγγενέσθαι μοι ποιῆσαι. τῶν δὲ ἄλλων ξένων ὅστις πώποτε ἠθέλησε καταστῆσαι ἐγγυητὰς, οὐδεὶς πώποτε ἐδέθη· καίτοι οἱ ἐπιμεληταὶ τῶν κακούργων τῷ αὐτῷ χρῶνται νόμῳ τούτῳ. ὥστε καὶ οὗτος κοινὸς τοῖς ἄλλοις πᾶσιν ὧν ἐμοὶ
- 18** μόνῳ ἐπέλιπε μὴ ὠφελῆσαι. τούτοις γὰρ ἦν τοῦτο συμφέρον, πρῶτον μὲν ἀπαρασκευότατον γενέσθαι με, μὴ δυνάμενον διαπράσσεσθαι αὐτὸν τὰματοῦ πράγματα, ἔπειτα

**5.16** ὑπελίπου *A*<sup>2</sup> ὑπελείπου *AN*      τοῖσδε τοῖς *Pahl*: τοῖς τότε *AN*: τότε τοῖς *Denniston*

**5.17** ὠφελῆσαι *Gernet*: ὠφελῆσαι τοῦδε κόσμου *AN*: ὠφελῆσαι τοῦδε τοῦ νόμου *A*<sup>2</sup>

κακοπαθεῖν τῷ σώματι, τοὺς τε φίλους προθυμότερους ἔχειν τοὺς ἑμαυτοῦ τούτοις τὰ ψευδῆ μαρτυρεῖν ἢ ἑμοὶ τἀληθῆ λέγειν, διὰ τὴν τοῦ σώματος κακοπάθειαν. ὄνειδός τε αὐτῷ τε ἑμοὶ περιέθεσαν καὶ τοῖς ἑμοῖς προσήκουσιν εἰς τὸν βίον ἅπαντα. οὕτως μὲν δὴ πολλοῖς ἐλασσωθείς τῶν νόμων τῶν ὑμετέρων **19** καὶ τοῦ δικαίου καθέστηκε εἰς τὸν ἀγῶνα· ὅμως μέντοι γε καὶ ἐκ τούτων πειράσομαι ἑμαυτὸν ἀναίτιον ἐπιδείξαι. καίτοι χαλεπὸν γε τὰ ἐκ πολλοῦ κατεψευσμένα καὶ ἐπιβεβουλευμένα, ταῦτα παραχρῆμα ἀπελέγχειν· ἃ γὰρ τις μὴ προσεδόκησεν, οὐδὲ φυλάξασθαι ἐγχωρεῖ.

ἐγὼ δὲ τὸν μὲν πλοῦν ἐποιησάμην ἐκ τῆς Μυτιλήνης, ὃ **20** ἄνδρες, ἐν τῷ πλοίῳ πλέων ὦι Ἡρώιδης οὗτος ὃν φασιν ὑπ' ἑμοῦ ἀποθανεῖν· ἐπλέομεν δὲ εἰς τὴν Αἴνον, ἐγὼ μὲν ὡς τὸν πατέρα – ἐτύγχανε γὰρ ἐκεῖ ὦν τότε – ὁ δ' Ἡρώιδης ἀνδράποδα Θραιξὶν ἀνθρώποις ἀπολύσων. συνέπλει δὲ τὰ τε ἀνδράποδα ἃ ἔδει αὐτὸν ἀπολῦσαι, καὶ οἱ Θραῖκες οἱ λυσόμενοι. τούτων δ' ὑμῖν τοὺς μάρτυρας παρέξομαι.

#### Μάρτυρες

ἢ μὲν πρόφασιν ἐκατέρωι τοῦ πλοῦ αὕτη· ἐτύχομεν δὲ χειμῶνι **21** τινι χρησάμενοι, ὑφ' οὗ ἠναγκάσθημεν κατασχεῖν εἰς τῆς Μηθυμναίας τι χωρίον, οὗ τὸ πλοῖον ὥρμει τοῦτο εἰς ὃ μετεκβάντα φασὶν ἀποθανεῖν αὐτὸν τὸν Ἡρώιδην. καὶ πρῶτον μὲν αὐτὰ ταῦτα σκοπεῖτε, ὅτι οὐ προνοίαι μᾶλλον ἐγίγνετο ἢ τύχη. οὔτε γὰρ πείσας τὸν ἄνδρα οὐδαμοῦ ἀπελέγχομαι σύμπλουν μοι γενέσθαι, ἀλλ' αὐτὸς καθ' αὐτὸν τὸν πλοῦν πεποιημένος ἕνεκα πραγμάτων ἰδίων· οὗτ' αὖ ἐγὼ ἄνευ **22** προφάσεως ἱκανῆς φαίνομαι τὸν πλοῦν ποιησάμενος εἰς τὴν Αἴνον, οὔτε κατασχόντες εἰς τὸ χωρίον τοῦτο ἀπὸ παρασκευῆς οὐδεμιᾶς, ἀλλ' ἀνάγκῃ χρησάμενοι· οὗτ' αὖ ἐπειδὴ ὥρμισάμεθα, ἢ μετέκβασις ἐγένετο εἰς τὸ ἕτερον πλοῖον οὐδενὶ μηχανήματι οὐδ' ἀπάτῃ, ἀλλ' ἀνάγκῃ καὶ τοῦτο ἐγίγνετο· ἐν

ᾧ μὲν γὰρ ἐπλέομεν, ἀστεγαστον ἦν τὸ πλοῖον, εἰς ὃ δὲ μετέβημεν, ἐστεγασμένον· τοῦ δὲ ὑετοῦ ἔνεκα ταῦτ' ἦν. τούτων δ' ὑμῖν μάρτυρας παρέξομαι.

#### Μάρτυρες

- 23 ἐπειδὴ δὲ μετεξέβημεν εἰς τὸ ἕτερον πλοῖον, ἐπίνομεν. καὶ ὁ μὲν ἐστὶ φανερός ἐκβὰς ἐκ τοῦ πλοίου καὶ οὐκ εἰσβὰς πάλιν· ἐγὼ δὲ τὸ παράπαν οὐκ ἐξέβην ἐκ τοῦ πλοίου τῆς νυκτὸς ἐκείνης. τῇ δ' ὑστεραίᾳ, ἐπειδὴ ἀφανὴς ἦν ὁ ἀνὴρ, ἐζητεῖτο οὐδέν τι μᾶλλον ὑπὸ τῶν ἄλλων ἢ καὶ ὑπ' ἐμοῦ· καὶ εἴ τωι τῶν ἄλλων ἐδόκει δεινὸν εἶναι, καὶ ἐμοὶ ὁμοίως. καὶ εἷς τε τὴν Μυτιλήνην ἐγὼ αἴτιος ἦν πεμφθῆναι ἄγγελον, καὶ τῇ ἐμῇ γνώμῃ ἐπέμπετο· καὶ
- 24 ἄλλου οὐδενὸς ἐθέλοντος βαδίζειν, οὔτε τῶν ἀπὸ τοῦ πλοίου οὔτε τῶν αὐτῷ τῷ Ἑρῳίδῃ συμπλεόντων, ἐγὼ τὸν ἀκόλουθον τὸν ἐμαυτοῦ πέμπειν ἕτοιμος ἦν· καίτοι οὐ δῆπου γε κατ' ἐμαυτοῦ μηνυτὴν ἔπεμπον εἰδώς. ἐπειδὴ δὲ ὁ ἀνὴρ οὔτε ἐν τῇ Μυτιλήνῃ ἐφαίνετο ζητούμενος οὔτ' ἄλλοθι οὐδαμοῦ, πλοῦς τε ἡμῖν ἐγίγνετο, καὶ τᾶλλα ἀνήγετρο πλοῖα ἅπαντα, ὠιχόμην καὶ γὰρ πλέων. τούτων δ' ὑμῖν τοὺς μάρτυρας παρασχήσομαι.

#### Μάρτυρες

- 25 τὰ μὲν γενόμενα ταῦτ' ἐστίν· ἐκ δὲ τούτων ἤδη σκοπεῖτε τὰ εἰκότα. πρῶτον μὲν γὰρ πρὶν ἀνάγεσθαί με εἰς τὴν Αἴνον, ὅτε ἦν ἀφανὴς ὁ ἀνὴρ, οὐδεὶς ἠιτιάσατό με ἀνθρώπων, ἥδη πεπυσμένων τούτων τὴν ἀγγελίαν· οὐ γὰρ ἂν ποτε ὠιχόμην πλέων. ἀλλ' εἰς μὲν τὸ παραχρῆμα κρεῖσσον ἦν τὸ ἀληθὲς καὶ τὸ γεγενημένον τῆς τούτων αἰτιάσεως, καὶ ἅμα ἐγὼ ἔτι ἐπεδήμουν· ἐπειδὴ δὲ ἐγὼ τε ὠιχόμην πλέων καὶ οὗτοι ἐξ ἐπιβουλῆς συνέθεσαν ταῦτα καὶ ἐμηχανήσαντο κατ' ἐμοῦ, τότε
- 26 ἠιτιάσαντο. λέγουσι δὲ ὡς ἐν μὲν τῇ γῇ ἀπέθανεν ὁ ἀνὴρ, καὶ γὰρ λίθον αὐτῷ ἐνέβαλον εἰς τὴν κεφαλὴν, ὃς οὐκ ἐξέβην τὸ παράπαν ἐκ τοῦ πλοίου. καὶ τοῦτο μὲν ἀκριβῶς οὗτοι ἴσασιν· ὅπως δ' ἠφανίσθη ὁ ἀνὴρ, οὐδενὶ λόγῳ εἰκότι δύνανται ἀποφαίνειν. δῆλον γὰρ ὅτι ἐγγὺς που τοῦ λιμένος εἰκὸς ἦν αὐτὸ

γίγνεσθαι, τοῦτο μὲν μεθύοντος τοῦ ἀνδρός, τοῦτο δὲ νύκτωρ ἐκβάντος ἐκ τοῦ πλοίου· οὔτε γὰρ αὐτοῦ κρατεῖν ἴσως ἂν ἐδύνατο, οὔτε τῷ ἀπάγοντι νύκτωρ μακρὰν ὁδὸν ἢ πρόφασιν ἂν εἰκότως ἐγίγνετο· ζητουμένου δὲ τοῦ ἀνδρός δύο ἡμέρας καὶ 27 ἐν τῷ λιμένι καὶ ἄπωθεν τοῦ λιμένος, οὔτε ὀπτήρ οὐδείς ἐφάνη οὔτε αἷμα οὔτε ἄλλο σημεῖον οὐδέν. καίτ' ἐγὼ συγχωρῶ τῷ τούτων λόγῳ, παρεχόμενος μὲν τοὺς μάρτυρας ὥς οὐκ ἐξέβην ἐκ τοῦ πλοίου; εἰ δὲ καὶ ὥς μάλιστα ἐξέβην ἐκ τοῦ πλοίου, οὐδενὶ τρόπῳ εἰκὸς ἦν ἀφανισθέντα λαθεῖν τὸν ἄνθρωπον, εἴπερ γε μὴ πάνυ πόρρῳ ἀπῆλθεν ἀπὸ τῆς θαλάσσης. ἀλλ' ὥς κατε- 28 ποντώθη λέγουσιν. ἐν τίνι πλοίῳ; δῆλον γὰρ ὅτι ἐξ αὐτοῦ τοῦ λιμένος ἦν τὸ πλοῖον. πῶς ἂν οὖν οὐκ ἐξηυρέθη; καὶ μὴν εἰκὸς γε ἦν καὶ σημεῖόν τι γενέσθαι ἐν τῷ πλοίῳ ἀνδρὸς τεθνεώτος καὶ ἐκβαλλομένου νύκτωρ. νῦν δὲ ἐν μὲν ᾧ ἔπινε πλοίῳ καὶ ἐξ οὗ ἐξέβαινε, ἐν τούτῳ φασὶν εὑρεῖν σημεῖα, ἐν ᾧ αὐτοὶ μὴ ὁμολογοῦσιν ἀποθανεῖν τὸν ἄνδρα· ἐν ᾧ δὲ κατεποντώθη, οὐχ ἡῦρον οὔτ' αὐτὸ τὸ πλοῖον οὔτε σημεῖον οὐδέν. τούτων δ' ὑμῖν τοὺς μάρτυρας παρασχέσομαι.

### Μάρτυρες

ἐπειδὴ δὲ ἐγὼ μὲν φρουρὸς ἦν πλέων εἰς τὴν Αἴνον, τὸ δὲ πλοῖον 29 ἦκεν εἰς τὴν Μυτιλήνην ἐν ᾧ ἐγὼ καὶ ὁ Ἡρώιδης ἐπίνομεν, πρῶτον μὲν εἰσβάντες εἰς τὸ πλοῖον ἠρεύνων, καὶ ἐπειδὴ τὸ αἷμα ἡῦρον, ἐνταῦθα ἔφασαν τεθνάναι τὸν ἄνδρα· ἐπειδὴ δὲ αὐτοῖς τοῦτο οὐκ ἐνεχώρει, ἀλλ' ἐφαίνετο τῶν προβάτων ὄν αἷμα, ἀποτραπόμενοι τούτου τοῦ λόγου συλλαβόντες ἐβασάνιζον τοὺς ἀνθρώπους. καὶ ὄν μὲν τότε παραχρῆμα 30 ἐβασάνισαν, οὗτος μὲν οὐδὲν εἶπε περὶ ἐμοῦ φλαῦρον· ὄν δ' ἡμέραις ὕστερον πολλαῖς ἐβασάνισαν, ἔχοντες παρὰ σφίσιν αὐτοῖς τὸν πρόσθεν χρόνον, οὗτος ἦν ὁ πεισθεὶς ὑπὸ τούτων καὶ καταψευσάμενος ἐμοῦ. παρέξομαι δὲ τούτων τοὺς μάρτυρας.

## Μάρτυρες

- 31 ὥς μὲν ὕστερον τοσούτῳ χρόνῳ ὁ ἀνὴρ ἐβασανίσθη, μεμαρτύρηται ὑμῖν· προσέχετε δὲ τὸν νοῦν αὐτῇ τῇ βασάνῳ, οἷα γεγένηται. ὁ μὲν γὰρ δοῦλος, ὧι ἴσως οὗτοι τοῦτο μὲν ἐλευθερίαν ὑπέσχοντο, τοῦτο δ' ἐπὶ τούτοις ἦν παύσασθαι κακούμενον αὐτόν, ἴσως ὑπ' ἀμφοῖν πεισθεὶς κατεψεύσατό μου, τὴν μὲν ἐλευθερίαν ἐλπίσας οἴσεσθαι, τῆς δὲ βασάνου εἰς τὸ
- 32 παραχρῆμα βουλόμενος ἀπηλλάχθαι. οἶμαι δ' ὑμᾶς ἐπίστασθαι τοῦτο, ὅτι ἐφ' οἷς ἂν τὸ πλεῖστον μέρος τῆς βασάνου, πρὸς τούτων εἰσὶν οἱ βασανιζόμενοι λέγειν ὅ τι ἂν ἐκείνοις μέλλωσι χαριεῖσθαι· ἐν τούτῳ γὰρ αὐτοῖς ἐστὶν ἡ ὠφέλεια, ἄλλως τε κἂν μὴ παρόντες τυγχάνωσιν ὧν ἂν καταψεύδωνται. εἰ μὲν γὰρ ἐγὼ ἐκέλευον αὐτὸν στρεβλοῦν ὥς οὐ τάληθ' ἔλεγοντα, ἴσως ἂν ἐν αὐτῷ τούτῳ ἀπετρέπετο μηδὲν κατ' ἐμοῦ καταψεύδεσθαι· νῦν δὲ αὐτοὶ ἦσαν καὶ βασανισταὶ καὶ ἐπιτιμηταὶ τῶν σφίσιν αὐτοῖς συμφερόντων.
- 33 ἕως μὲν οὖν μετὰ χρηστῆς ἐλπίδος, ἐγὶγνωσκέ μου καταψευσάμενος, τούτῳ δισχυρίζετο τῷ λόγῳ· ἐπειδὴ δὲ ἐγὶγνωσκεν ἀποθανούμενος, ἐνταῦθ' ἤδη τῇ ἀληθείᾳ ἐχρήτο, καὶ ἔλεγεν ὅτι πεισθεὶς ὑπὸ τούτων ἐμοῦ καταψεύδεσθαι.
- 34 διαπειραθέντα δ' αὐτόν τὰ ψευδῆ λέγειν, ὕστερον δὲ τάληθ' ἔλεγοντα, οὐδέτερα ὠφέλησεν, ἀλλ' ἀπέκτειναν ἄγοντες τὸν ἄνδρα, τὸν μηνυτὴν, ὧι πιστεύοντες ἐμὲ διώκουσι, τὸνναντίον ποιήσαντες ἢ οἱ ἄλλοι ἄνθρωποι· οἱ μὲν γὰρ ἄλλοι τοῖς μηνυταῖς τοῖς μὲν ἐλευθέροις χρήματα διδόασιν, τοὺς δὲ δούλους ἐλευθεροῦσιν· οὗτοι δὲ θάνατον τῷ μηνυτῇ τὴν δωρεὰν ἀπέδωκαν, ἀπαγορευόντων τῶν φίλων τῶν ἐμῶν μὴ
- 35 ἀποκτείνειν τὸν ἄνδρα πρὶν ἐγὼ ἔλθοιμι. δῆλον οὖν ὅτι οὐ τοῦ σώματος αὐτοῦ χρεία ἦν αὐτοῖς, ἀλλὰ τῶν λόγων· ζῶν μὲν γὰρ ὁ ἀνὴρ διὰ τῆς αὐτῆς βασάνου ἰὼν ὑπ' ἐμοῦ κατηγοροῦς ἂν ἐγὶγνετο τῆς τούτων ἐπιβουλῆς, τεθνεὼς δὲ τὸν μὲν ἔλεγχον τῆς ἀληθείας ἀπεστέρει δι' αὐτοῦ τοῦ σώματος ἀπολλυμένου, τοῖς δὲ λόγοις τοῖς ἐψευσμένοις ὑπ' ἐκείνου ὥς ἀληθέσιν οὖσιν ἐγὼ ἀπόλλυμαι. τούτων δὲ μάρτυράς μοι κάλει.

## 〈Μάρτυρες〉

ἐχρῆν μὲν γὰρ αὐτούς, ὡς ἐγὼ νομίζω, ἐνθάδε παρέχοντας τὸν 36  
 μηνυτὴν αὐτὸν ἀπελέγχειν ἐμέ, καὶ αὐτῷ τούτῳ χρῆσθαι  
 ἀγωνίσματι, ἐμφανῇ παρέχοντας τὸν ἄνδρα καὶ κελεύοντας  
 βασανίζειν, ἀλλὰ μὴ ἀποκτεῖναι. φέρε γὰρ δὴ ποτέρῳ νῦν  
 χρήσονται τῶν λόγων; πότερά ᾧ πρῶτον εἶπεν ἢ ᾧ  
 ὕστερον; καὶ πότερ' ἀληθὴ ἐστίν, ὅτ' ἔφη με εἰργάσθαι τὸ ἔργον  
 ἢ ὅτ' οὐκ ἔφη; εἰ μὲν γὰρ ἐκ τοῦ εἰκότος ἐξετασθῆναι δεῖ τὸ 37  
 πρᾶγμα, οἱ ὕστεροι λόγοι ἀληθέστεροι φαίνονται. ἐψεύδετο  
 μὲν γὰρ ἐπ' ὠφελείᾳ τῇ ἐαυτοῦ, ἐπειδὴ δὲ τῷ ψεύδεσθαι  
 ἀπώλλυτο, ἡγήσατο τ' ἀληθῆ κατειπὼν διὰ τοῦτο σωθῆναι ἄν.  
 τῆς μὲν οὖν ἀληθείας οὐκ ἦν αὐτῷ τιμωρὸς οὐδεὶς· οὐ γὰρ  
 παρῶν ἐγὼ ἐτύγχανον, ὥπερ σύμμαχος ἦν ἡ ἀλήθεια τῶν  
 ὑστέρων λόγων· τοὺς δὲ προτέρους λόγους τοὺς κατε-  
 ψευσμένους ἦσαν οἱ ἀφανιοῦντες ὥστε μηδέποτε εἰς τὸ ἀληθὲς 38  
 καταστῆναι. καὶ οἱ μὲν ἄλλοι καθ' ὧν ἄν μηνύη τις, οὗτοι  
 κλέπτουσι τοὺς μηνύοντας καὶ τ' ἀφανίζουσιν· αὐτοὶ δὲ οὗτοι οἱ  
 ἀπάγοντες καὶ ζητοῦντες τὸ πρᾶγμα τὸν κατ' ἐμοῦ μηνυτὴν  
 ἠφάνισαν. καὶ εἰ μὲν ἐγὼ τὸν ἄνδρα ἠφάνισα ἢ μὴ ἠθέλον  
 ἐκδοῦναι τούτοις ἢ ἄλλον τινὰ ἐφευγον ἔλεγχον, αὐτοῖς δὴ  
 τούτοις ἰσχυροτάτοις εἰς τὰ πράγματα ἔχρωντο, καὶ ἦν ταῦτα  
 αὐτοῖς μέγιστα τεκμήρια κατ' ἐμοῦ· νῦν δέ, ὅποτε αὐτοὶ οὗτοι  
 προκαλουμένων τῶν φίλων τῶν ἐμῶν ταῦτ' ἐφυγον, ἐμοὶ  
 δήπου κατὰ τούτων εἶναι χρὴ ταῦτα ταῦτα τεκμήρια, ὡς οὐκ  
 ἀληθῆ τὴν αἰτίαν ἐπέφερον ἦν ἠιτιῶντο. ἔτι δὲ καὶ τάδε 39  
 λέγουσιν, ὡς ὠμολόγει ὁ ἄνθρωπος βασανιζόμενος  
 συναποκτεῖναι τὸν ἄνδρα. ἐγὼ δὲ φημι ταῦτα μὲν οὐ λέγειν  
 αὐτόν, ὅτι δὲ ἐξάγοι ἐμὲ καὶ τὸν ἄνδρα ἐκ τοῦ πλοίου, καὶ ὅτι  
 ἤδη τεθνεῶτα αὐτόν ὑπ' ἐμοῦ συνανελὼν καὶ ἐνθὲς εἰς τὸ  
 πλοῖον καταποντώσειε. καίτοι σκέψασθε ὅτι πρῶτον μὲν, πρὶν 40

5.37 τῷ  $A^2$ : τὸ  $AN$ : διὰ τὸ Jernstedt

5.38 αὐτοῖς Spengel: αὐτοὶ  $AN$

5.39 ἐξάγοι  $A$ : ἐξάγει  $N$ : ἐξαγάγοι Baiter      συνανελὼν Maetznar: συνελὼν  
 $N$ : om.  $A$

- ἐπὶ τὸν τροχὸν ἀναβῆναι, ὁ ἀνὴρ μέχρι τῆς ἐσχάτης ἀνάγκης τῇ ἀληθείᾳ ἐχρῆτο καὶ ἀπέλυέ με τῆς αἰτίας· ἐπειδὴ δὲ ἐπὶ τὸν τροχὸν ἀνέβη, τῇ ἀνάγκῃ χρώμενος ἤδη κατεψεύδετό μου,
- 41 βουλόμενος ἀπηλλάχθαι τῆς βασάνου· ἐπειδὴ δὲ ἐπαύσατο βασανιζόμενος, οὐκέτι ἔφη με τούτων εἰργάσθαι οὐδέν, ἀλλὰ τὸ τελευταῖον ἀπώιμωξεν ἐμέ τε καὶ αὐτὸν ὡς ἀδίκως ἀπολλυμένους, οὐ χάριτι τῇ ἐμῇ – πῶς γάρ; ὅς γε κατεψεύσατο – ἀλλ’ ἀναγκαζόμενος ὑπὸ τοῦ ἀληθοῦς καὶ
- 42 βεβαιῶν τοὺς πρώτους λόγους ὡς ἀληθεῖς εἰρημένους. ἔπειτα δὲ ὁ ἕτερος ἄνθρωπος, ὁ ἐν τῷ αὐτῷ πλοίῳ πλέων καὶ παρῶν διὰ τέλους καὶ συνών μοι, τῇ αὐτῇ βασάνῳ βασανιζόμενος τοῖς μὲν πρώτοις καὶ τοῖς ὕστερον λόγοις τοῖς τοῦ ἀνθρώπου συνεφέρετο ὡς ἀληθέσιν εἰρημένοις, διὰ τέλους γάρ με ἀπέλυε, τοῖς δὲ ἐπὶ τοῦ τροχοῦ λεγομένοις, οὓς ἐκεῖνος ἀνάγκῃ μᾶλλον ἢ ἀληθείᾳ ἔλεγε, τούτοις δὲ διεφέρετο. ὁ μὲν γάρ ἐκβάντα μ’ ἔφη ἐκ τοῦ πλοίου ἀποκτεῖναι τὸν ἄνδρα, καὶ αὐτὸς ἤδη τεθνεῶτα συνανελεῖν μοι· ὁ δὲ τὸ παράπαν ἔφη οὐκ ἐκβῆναί με ἐκ τοῦ πλοίου.
- 43 καίτοι τὸ εἰκὸς σύμμαχόν μοί ἐστιν. οὐ γὰρ δήπου οὕτω κακοδαίμων ἐγώ, ὥστε τὸ μὲν ἀποκτεῖναι τὸν ἄνδρα προύνοησάμην μόνος, ἵνα μοι μηδεὶς συνειδέῃ, ἐν ᾧ μοι ὁ πᾶς κίνδυνος ἦν, ἤδη δὲ πεπραγμένου μοι τοῦ ἔργου μάρτυρας καὶ
- 44 συμβούλους ἐποιούμην. καὶ ἀπέθανε μὲν ὁ ἀνὴρ οὕτως ἐγγὺς τῆς θαλάσσης καὶ τῶν πλοίων, ὡς ὁ τούτων λόγος ἐστίν· ὑπὸ δὲ ἐνὸς ἀνδρὸς ἀποθνήσκων οὔτε ἀνέκραγεν οὔτ’ αἰσθησιν οὐδεμίαν ἐποίησεν οὔτε τοῖς ἐν τῇ γῇ οὔτε τοῖς ἐν τῷ πλοίῳ; καὶ μὴν πολλῶι <ἐπὶ> πλέον γε ἀκούειν ἔστι νύκτωρ ἢ μεθ’ ἡμέραν, ἐπ’ ἀκτῆς ἢ κατὰ πόλιν· καὶ μὴν ἔτι ἐγρηγορότων
- 45 φασὶν ἐκβῆναι τὸν ἄνδρα ἐκ τοῦ πλοίου. ἔπειτα ἐν τῇ γῇ μὲν ἀποθανόντος, ἐντιθεμένου δὲ εἰς τὸ πλοῖον, οὔτε ἐν τῇ γῇ σημεῖον οὐδὲ αἷμα ἐφάνη οὔτε ἐν τῷ πλοίῳ, νύκτωρ μὲν ἀναιρεθέντος, νύκτωρ δ’ ἐντιθεμένου εἰς τὸ πλοῖον. ἢ δοκεῖ ἄν ὑμῖν ἄνθρωπος δύνασθαι ἐν τοιούτῳ πράγματι ὧν τά τε ἐν τῇ

γῆι ὄντα ἀναξύσαι καὶ τὰ ἐν τῷ πλοίῳ ἀνασπογγίσαι, ἃ οὐδὲ μεθ' ἡμέραν τις οἷός τε ἐγένετο, ἔνδον ὦν αὐτοῦ καὶ μὴ πεφοβημένος, τὸ παράπαν ἀφανίσαι; ταῦτα, ὦ ἄνδρες, πῶς εἰκότα ἐστίν;

ὁ δὲ καὶ μάλιστα ἐνθυμεῖσθε – καὶ μή μοι ἄχθεσθε, ἂν ὑμᾶς 46  
πολλάκις ταῦτὰ διδάξω· μέγας γὰρ ὁ κίνδυνός ἐστιν, καθ' ὃ τι δ' ἂν ὑμεῖς ὀρθῶς γινώτε, κατὰ τοῦτο σώωζομαι, καθ' ὃ τι δ' ἂν ψευσθῆτε τάληθοῦς, κατὰ τοῦτο ἀπόλλυμαι – μὴ οὖν ἐξέληται τοῦτο ὑμῶν μηδεὶς, ὅτι τὸν μηνυτὴν ἀπέκτειναν, καὶ διετείναντο αὐτὸν μὴ εἰσελθεῖν εἰς ὑμᾶς, μηδ' ἐμοὶ ἐγγενέσθαι παρόντι ἄξαι τὸν ἄνδρα καὶ βασανίσαι αὐτόν. καίτοι πρὸς τούτων ἦν τοῦτο. νῦν δὲ πριάμενοι τὸν ἄνδρα, ἰδίαι ἐπὶ σφῶν 47  
αὐτῶν ἀπέκτειναν, τὸν μηνυτὴν, οὔτε τῆς πόλεως ψηφισαμένης, οὔτε αὐτόχειρα ὄντα τοῦ ἀνδρός. ὃν ἐχρῆν δεδεμένον αὐτοὺς φυλάσσειν, ἢ τοῖς φίλοις τοῖς ἐμοῖς ἐξεγγυῆσαι, ἢ τοῖς ἄρχουσι τοῖς ὑμετέροις παραδοῦναι, καὶ ψῆφον περὶ αὐτοῦ γενέσθαι. νῦν δὲ αὐτοὶ καταγνόντες τὸν θάνατον τοῦ ἀνδρός ἀπεκτείνετε· ὁ οὐδὲ πόλει ἔξεστιν, ἄνευ Ἀθηναίων οὐδένα θανάτῳ ζημιῶσαι. καὶ τῶν μὲν ἄλλων λόγων τῶν ἐκείνου τουτουσὶ κριτὰς ἤξιώσατε γενέσθαι, τῶν δὲ ἔργων αὐτοὶ δικασταὶ ἐγένεσθε. καίτοι οὐδὲ οἱ τοὺς δεσπότης 48  
ἀποκτείναντες, ἐὰν ἐπ' αὐτοφώρῳ ληφθῶσιν, οὐδ' οὔτοι ἀποθνήσκουσιν ὑπ' αὐτῶν τῶν προσηκόντων, ἀλλὰ παραδιδόασιν αὐτοὺς τῇ ἀρχῇ κατὰ νόμους ὑμετέρους πατρίους. εἴπερ γὰρ καὶ μαρτυρεῖν ἔξεστι δούλῳ κατὰ τοῦ ἐλευθέρου τὸν φόνον, καὶ τῷ δεσπότῃ, ἂν δοκῇ, ἐπεξελεῖν ὑπὲρ τοῦ δούλου, καὶ ἡ ψῆφος ἴσον δύναται τῷ δοῦλον ἀποκτείναντι καὶ τῷ ἐλεύθερον, εἰκός τοι καὶ ψῆφον γενέσθαι περὶ αὐτοῦ ἦν, καὶ μὴ ἄκριτον ἀποθανεῖν αὐτόν ὑφ' ὑμῶν. ὥστε πολλῶι ἂν ὑμεῖς δικαιότερον κρίνοισθε ἢ ἐγὼ νῦν φεύγω ὑφ' ὑμῶν ἀδίκως. σκοπεῖτε δὴ, ὦ ἄνδρες, καὶ ἐκ τοῖν λόγοιν τοῖν 49  
ἀνδροῖν ἐκατέρωιν τοῖν βασανισθέντων τὸ δίκαιον καὶ τὸ εἰκός. ὁ μὲν γὰρ δοῦλος δύο λόγῳ ἔλεγε· τοτὲ μὲν ἔφη με εἰργάσθαι τὸ

5.45 ἀνασπογγίσαι Ν: ἀποσπογγίσαι Α

5.48 ὑμεῖς δικαιότερον Α: δικαιότερον ὑμεῖς Ν



ἔργον, τοτὲ δὲ οὐκ ἔφη· ὁ δὲ ἐλεύθερος οὐδέπω νῦν εἶρηκε περὶ  
 50 ἐμοῦ φλαῦρον οὐδέν, τῇ αὐτῇ βασάνωι βασανιζόμενος. τοῦτο  
 μὲν γὰρ οὐκ ἦν αὐτῷ ἐλευθερίαν προτείνοντας ὥσπερ τὸν  
 ἕτερον πείσαι· τοῦτο δὲ μετὰ τοῦ ἀληθοῦς ἐβούλετο  
 κινδυνεύων πάσχειν ὅ τι δέοι, ἐπεὶ τό γε συμφέρον καὶ οὗτος  
 ἠπίστατο, ὅτι τότε παύσοιτο στρεβλούμενος, ὁπότε εἴποι τὰ  
 τούτοις δοκοῦντα. ποτέρωι οὖν εἰκὸς ἐστὶ πιστεῦσαι, τῷ διὰ  
 τέλους τὸν αὐτὸν ἀεὶ λόγον λέγοντι, ἢ τῷ τοτὲ μὲν φάσκοντι  
 51 τοτὲ δ' οὐ; ἀλλὰ καὶ ἄνευ βασάνου τοιαύτης οἱ τοὺς αὐτοὺς αἰεὶ  
 περὶ τῶν αὐτῶν λόγους λέγοντες πιστότεροί εἰσι τῶν  
 διαφορομένων σφίσιν αὐτοῖς. ἔπειτα δὲ καὶ ἐκ τῶν λόγων τῶν  
 τοῦ ἀνθρώπου μερὶς ἐκατέρωι ἴση ἐστί, τούτοις μὲν τὸ φάσκειν,  
 ἐμοὶ δὲ τὸ μὴ φάσκειν, ἔκ τε ἀμφοῖν τοῖν ἀνδροῖν τοῖν  
 βασανισθέντων· ὁ μὲν γὰρ ἔφησεν, ὁ δὲ διὰ τέλους ἔξαρνος ἦν.  
 καὶ μὲν δὴ τὰ ἐξ ἴσου γενομένα τοῦ φεύγοντός ἐστι μᾶλλον ἢ τοῦ  
 διώκοντος, εἴπερ γε καὶ τῶν ψήφων ὁ ἀριθμὸς ἐξ ἴσου  
 γιγνόμενος τὸν φεύγοντα μᾶλλον ὠφελεῖ ἢ τὸν διώκοντα. ἢ μὲν  
 52 βάσανος, ὧς ἄνδρες, τοιαύτη γεγένηται, ἣ οὗτοι πιστεύοντες εὖ  
 εἰδέναι φασὶν ὑπ' ἐμοῦ ἀποθανόντα τὸν ἄνδρα. καίτοι τὸ  
 παράπαν ἔγωγ' ἂν εἴ τι συνήδη ἐμαυτῷ καὶ εἴ τί μοι τοιοῦτον  
 εἴργαστο, ἠφάνισ' ἂν τῷ ἀνθρώπῳ, ὅτε ἐπ' ἐμοὶ ἦν τοῦτο μὲν  
 εἰς τὴν Αἴνον ἀπάγειν ἅμα ἐμοί, τοῦτο δὲ εἰς τὴν ἡπειρον  
 διαβιβάσαι, καὶ μὴ ὑπολείπεσθαι μηνυτὰς κατ' ἐμαυτοῦ τοὺς  
 συνειδότας.

53 φασὶ δὲ γραμματείδιον εὐρεῖν ἐν τῷ πλοίῳ, ὃ ἔπεμπον ἐγὼ  
 Λυκίνῳ, ὡς ἀποκτείναιμι τὸν ἄνδρα. καίτοι τί ἔδει με  
 γραμματείδιον πέμπειν, αὐτοῦ συνειδότος τοῦ τὸ  
 γραμματείδιον φέροντος; ὥστε τοῦτο μὲν σαφέστερον αὐτὸς  
 ἐμελλεν εἶρεῖν ὁ εἰργασμένος, τοῦτο δὲ οὐδὲν ἔδει κρύπτειν αὐτά·  
 ἃ γὰρ μὴ οἶόν τε εἰδέναι τὸν φέροντα, ταῦτ' ἂν τις μάλιστα  
 54 συγγράψας πέμπειεν. ἔπειτα δὲ ὅ τι μὲν μακρὸν εἶη πρᾶγμα,

5-51 ἐκατέρωι *N*: ἐκατέρω *A* (?) ἴση ἐστὶ *A*<sup>2</sup>: ἴσον εἰ *A*: ἴσο. εἰ. (?) *N*: ἴση ἂν εἴη  
 Thalheim τούτοις *A*<sup>2</sup>: τοῦτο *A* (?): τοῦτον *N*

5-53 Post φέροντος habent *AN* τίνος γε δὴ . . . ἐμοὶ κάκείνῳι, quae ad 5-57 (init.)  
 transposuit Aldus

τοῦτο μὲν ἂν τις ἀναγκασθεῖ γράψαι τῷ μὴ διαμνημονεύειν  
 τὸν ἀπαγγέλλοντα ὑπὸ πλήθους· τοῦτο δὲ βραχὺ ἦν  
 ἀπαγγεῖλαι, ὅτι τέθνηκεν ὁ ἀνὴρ. ἔπειτα ἐνθυμεῖσθε ὅτι  
 διάφορον ἦν τὸ γραμματείδιον τῷ βασανισθέντι, διάφορος δ' ὁ  
 ἄνθρωπος τῷ γραμματείδι· ὁ μὲν γὰρ βασανιζόμενος αὐτὸς  
 ἔφη ἀποκτεῖναι, τὸ δὲ γραμματείδιον ἀνοιχθὲν ἐμὲ τὸν  
 ἀποκτείναντα ἐμήνυε. καίτοι ποτέρῳ χρή πιστεῦσαι; τὸ μὲν 55  
 γὰρ πρῶτον οὐχ ἡῦρον ἐν τῷ πλοίῳ ζητοῦντες τὸ  
 γραμματείδιον, ὕστερον δέ. τότε μὲν γὰρ οὐπω οὕτως  
 ἐμεμηχάνητο αὐτοῖς· ἐπειδὴ δὲ ὁ ἄνθρωπος ὁ πρότερος  
 βασανισθεὶς οὐδὲν ἔλεγε κατ' ἐμοῦ, τότε εἰσβάλλουσιν εἰς τὸ  
 πλοῖον τὸ γραμματείδιον, ἵνα ταύτῃ γ' ἔχοιεν ἐμοὶ τὴν αἰτίαν  
 ἐπιφέρειν· ἐπειδὴ δὲ ἀνεγνώσθη τὸ γραμματείδιον καὶ ὁ ὕστερος 56  
 βασανιζόμενος οὐ συνεφέρετο τῷ γραμματείδι, οὐκέτι οἶόν  
 τ' ἦν ἀφανίσαι τὰ ἀναγνωσθέντα. εἰ γὰρ ἡγήσαντο τὸν ἄνδρα  
 πείσειν ἀπὸ πρώτης καταψεύδεσθαί μου, οὐκ ἂν ποτ'  
 ἐμηχανήσαντο τὰ ἐν τῷ γραμματείδι. καὶ μοι μάρτυρας  
 τούτων κάλει.

### Μάρτυρες

τίνος γε δὴ ἔνεκα τὸν ἄνδρα ἀπέκτεινα; οὐδὲ γὰρ ἔχθρα οὐδεμία 57  
 ἦν ἐμοὶ κἀκείνῳ. λέγειν δὲ τολμῶσιν ὥς ἐγὼ χάριτι τὸν ἄνδρα  
 ἔκτεινα. καὶ τίς πώποτε χαριζόμενος ἐτέρῳ τοῦτο εἰργάσατο;  
 οἶμαι μὲν γὰρ οὐδένα, ἀλλὰ δεῖ μεγάλην τὴν ἔχθραν ὑπάρχειν  
 τῷ τοῦτο μέλλοντι ποιήσῃ, καὶ τὴν πρόνοιαν ἐκ πολλοῦ  
 φανεράν εἶναι ἐπιβουλευομένην. ἐμοὶ δὲ κἀκείνῳ οὐκ ἦν ἔχθρα  
 οὐδεμία. εἶεν, ἀλλὰ δέισας περὶ ἐμαυτοῦ μὴ αὐτὸς παρ' ἐκείνου 58  
 τοῦτο πάθοιμι; καὶ γὰρ ἂν τῶν τοιούτων ἔνεκά τις  
 ἀναγκασθεῖ τοῦτο ἐργάσασθαι. ἀλλὰ οὐδὲν μοι τοιοῦτον  
 ὑπῆρκετο εἰς αὐτόν. ἀλλὰ χρήματα ἔμελλον λήψεσθαι  
 ἀποκτείνας αὐτόν; ἀλλ' οὐκ ἦν αὐτῷ. ἀλλὰ σοὶ μᾶλλον ἐγὼ 59  
 τὴν πρόφασιν ταύτην ἔχοιμ' ἂν εἰκότως μετὰ τῆς ἀληθείας  
 ἀναθεῖναι, ὅτι χρημάτων ἔνεκα ζητεῖς ἐμὲ ἀποκτεῖναι, μᾶλλον ἢ

5·58 ἀλλὰ χρήματα . . . αὐτῷ ante εἶεν habent *AN*: huc transposuit Dobree

- σὺ ἐμοὶ ἐκείνον· καὶ πολὺ ἂν δικαιότερον ἀλοίης σὺ φόνου ἐμὲ ἀποκτείνας ὑπὸ τῶν ἐμοὶ προσηκόντων, ἢ ἐγὼ ὑπὸ σοῦ καὶ τῶν ἐκείνου ἀναγκαίων. ἐγὼ μὲν γάρ σου φανεράν τὴν πρόνοιαν εἰς ἐμὲ ἀποδείκνυμι, σὺ δέ με ἐν ἀφανεῖ λόγῳ ζητεῖς
- 60** ἀπολέσαι. ταῦτα μὲν ὑμῖν λέγω, ὥς αὐτῷ μοι πρόφασιν οὐδεμίαν ἔχει ἀποκτεῖναι τὸν ἄνδρα· δεῖ δέ με καὶ ὑπὲρ Λυκίνου ἀπολογήσασθαι, ὥς ἔοικεν, ἀλλ' οὐχ ὑπὲρ αὐτοῦ μόνον, ὥς οὐδὲ ἐκείνον εἰκότως αἰτιῶνται. λέγω τοίνυν ὑμῖν ὅτι ταῦτά ὑπῆρχεν αὐτῷ εἰς ἐκείνον ἅπερ ἐμοί· οὔτε γὰρ χρήματα ἦν αὐτῷ ὁπόθεν ἂν ἔλαβεν ἀποκτείνας ἐκείνον, οὔτε κίνδυνος αὐτῷ ὑπῆρχεν οὐδεὶς ὄντινα διέφευγεν ἀποθανόντος ἐκείνου.
- 61** τεκμήριον δὲ μέγιστον ὥς οὐκ ἐβούλετο αὐτὸν ἀπολέσαι· ἐξὸν γὰρ αὐτῷ ἐν ἀγῶνι καὶ κινδύνῳ μεγάλῳ καταστήσαντι μετὰ τῶν νόμων τῶν ὑμετέρων ἀπολέσαι ἐκείνον, εἴπερ προωφείλετο αὐτῷ κακόν, καὶ τό τε ἴδιον τὸ αὐτοῦ διαπράξασθαι καὶ τῇ πόλει τῇ ὑμετέραι χάριν καταθέσθαι, εἰ ἐπέδειξεν ἀδικοῦντα ἐκείνον, οὐκ ἠξίωσεν, ἀλλ' οὐδ' ἦλθεν ἐπὶ τοῦτον. καίτοι καλλίων γε ἦν ὁ κίνδυνος αὐτῷ.

#### Μάρτυρες

- 62** ἀλλὰ γὰρ ἐνταῦθα μὲν ἀφῆκεν αὐτόν, οὗ δὲ ἔδει κινδυνεύειν αὐτὸν περὶ τε αὐτοῦ καὶ περὶ ἐμοῦ, ἐνταῦθα δ' ἐπεβούλευεν, ἐν ᾧ γνωσθεῖς ἂν ἀπεστέροι μὲν ἐμὲ τῆς πατρίδος, ἀπεστέροι δὲ αὐτὸν ἱερῶν καὶ ὁσίων καὶ τῶν ἄλλων ἅπερ μέγιστα καὶ περὶ πλείστου ἐστὶν ἀνθρώποις. ἔπειτα δ' εἰ καὶ ὥς μάλιστα ἐβούλετο αὐτὸν ὁ Λυκῖνος τεθνάναι – εἴμι γὰρ καὶ ἐπὶ τὸν τῶν κατηγορῶν λόγον – οὗ αὐτὸς οὐκ ἠξίου αὐτόχειρ γενέσθαι, τοῦτο τὸ ἔργον ἐγὼ ποτ' ἂν ἐπέισθην ἀντ' ἐκείνου ποιῆσαι;
- 63** πότερα ὥς ἐγὼ μὲν ἦν τῷ σώματι ἐπιτήδειος διακινδυνεύειν, ἐκείνος δὲ χρήμασι τὸν ἐμὸν κίνδυνον ἐκπρίσσει; οὐ δῆτα· τῷ μὲν γὰρ οὐκ ἦν χρήματα, ἐμοὶ δὲ ἦν· ἀλλ' αὐτὸ τούναντίον ἐκείνος τοῦτο θᾶσσον ἂν ὑπ' ἐμοῦ ἐπέισθη κατὰ γε τὸ εἰκὸς ἢ ἐγὼ ὑπὸ τούτου, ἐπεὶ ἐκείνός γ' ἑαυτὸν οὐδ' ὑπερήμερον

γενόμενον ἐπτά μνῶν δυνατὸς ἦν λύσασθαι, ἀλλ' οἱ φίλοι αὐτὸν ἐλύσαντο. καὶ μὲν δὴ καὶ τῆς χρείας τῆς ἐμῆς καὶ τῆς Λυκίνου τοῦτο ὑμῖν μέγιστον τεκμήριόν ἐστιν, ὅτι οὐ σφόδρα ἐχρώμην ἐγὼ Λυκίνῳ φίλῳ, ὥς πάντα ποιῆσαι ἂν τὰ ἐκείνῳ δοκοῦντα· οὐ γὰρ δὴπου ἐπτά μὲν μνᾶς οὐκ ἀπέτεισα ὑπὲρ αὐτοῦ δεδεμένου καὶ λυμαινομένου, κίνδυνον δὲ τοσοῦτον ἀράμενος ἄνδρα ἀπέκτεινα δι' ἐκείνον.

ὥς μὲν οὖν οὐκ αὐτὸς αἰτίος εἰμι τοῦ πράγματος οὐδὲ ἐκεῖνος, 64  
ἀποδέδεικται καθ' ὅσον ἐγὼ δύναμαι μάλιστα. τούτῳ δὲ χρῶνται πλείστῳ λόγῳ οἱ κατήγοροι, ὅτι ἀφανὴς ἐστὶν ὁ ἀνὴρ, καὶ ὑμεῖς ἴσως περὶ τούτου αὐτοῦ ποθεῖτε ἀκοῦσαι. εἰ μὲν οὖν τοῦτο εἰκάζειν με δεῖ, ἐξ ἴσου τοῦτό ἐστι καὶ ὑμῖν καὶ ἐμοί· οὔτε γὰρ ὑμεῖς αἰτίοι τοῦ ἔργου ἐστέ οὔτε ἐγώ· εἰ δὲ δεῖ τοῖς ἀληθέσι χρῆσθαι, τῶν εἰργασμένων τινὰ ἐρωτῶντων· ἐκείνου γὰρ ἄριστα πύθοιντο. ἐμοὶ μὲν γὰρ τῷ μὴ εἰργασμένῳ 65  
τοσοῦτον τὸ μακρότατον τῆς ἀποκρίσεως ἐστὶν, ὅτι οὐκ εἰργασμαι· τῷ δὲ ποιήσαντι ραιδίᾳ ἐστὶν ἢ ἀπόδειξις, καὶ μὴ ἀποδείξαντι εὖ εἰκάσαι. οἱ μὲν γὰρ πανουργοῦντες ἅμα τε πανουργοῦσι καὶ πρόφασιν εὐρίσκουσι τοῦ ἀδικήματος· τῷ δὲ μὴ εἰργασμένῳ χαλεπὸν περὶ τῶν ἀφανῶν εἰκάζειν. οἶμαι δ' ἂν καὶ ὑμῶν ἕκαστον, εἴ τίς τινα ἔροιτο ὅ τι μὴ τύχοι εἰδώς, τρσοῦτον ἂν εἰπεῖν, ὅτι οὐκ οἶδεν· εἰ δέ τις περαιτέρω τι κελεύει λέγειν, ἐν πολλῇ ἂν ἔχεσθαι ὑμᾶς ἀπορίαι δοκῶ. μὴ τοίνυν ἐμοὶ 66  
νείμητε τὸ ἄπορον τοῦτο. ἐν ᾧ μὴδ' ἂν αὐτοὶ εὐποροῖτε· μὴδὲ ἐὰν εὖ εἰκάζω, ἐν τούτῳ μοι ἀξιοῦτε τὴν ἀπόφευξιν εἶναι, ἀλλ' ἐξαρκείτω μοι ἐμαυτὸν ἀναίτιον ἀποδείξαι τοῦ πράγματος. ἐν τούτῳ οὖν ἀναίτιός εἰμι, οὐκ ἐὰν ἐξεύρω ὅτῳ τρόπῳ ἀφανὴς ἐστὶν ἢ ἀπόλωλεν ἀνὴρ, ἀλλ' εἰ μὴ προσήκει μοι μὴδὲν ὥστ' ἀποκτεῖναι αὐτόν. ἤδη δ' ἔγωγε καὶ πρότερον ἀκοῇ ἐπίσταμαι 67  
γεγονός, τοῦτο μὲν τοὺς ἀποθανόντας, τοῦτο δὲ τοὺς ἀποκτείναντας οὐχ εὐρεθέντας· οὐκουν ἂν καλῶς ἔχοι, εἰ τούτων δέοι τὰς αἰτίας ὑποσχεῖν τοὺς συγγενομένους. πολλοὶ δέ γ' ἤδη σχόντες ἐτέρων πραγμάτων αἰτίας, πρὶν τὸ σαφὲς αὐτῶν γνωσθῆναι, προαπώλυντο. αὐτίκα Ἐφιάλτην τὸν 68  
ὑμέτερον πολίτην οὐδέπω νῦν ἡῦρηνται οἱ ἀποκτείναντες· εἰ

οὖν τις ἡξίου τοὺς συνόντας ἐκείνῳ εἰκάζειν οἷτινες ἦσαν οἱ ἀποκτείναντες Ἐφιάλτην, εἰ δὲ μή, ἐνόχους εἶναι τῷ φόνῳ, οὐκ ἂν καλῶς εἶχε τοῖς συνοῦσιν. ἔπειτα οἷ γε Ἐφιάλτην ἀποκτείναντες οὐκ ἐζήτησαν τὸν νεκρὸν ἀφανίσαι, οὐδ' ἐν τούτῳ κινδυνεύειν μηνῦσαι τὸ πρᾶγμα, ὥσπερ οἶδε φασὶν ἐμὲ τῆς μὲν ἐπιβουλῆς οὐδένα κοινωνὸν ποιήσασθαι τοῦ θανάτου, 69 τῆς δ' ἀναιρέσεως. τοῦτο δ' ἐντὸς οὐ πολλοῦ χρόνου παῖς ἐζήτησεν οὐδὲ δώδεκα ἔτη γεγωνῶς τὸν δεσπότην ἀποκτεῖναι· καὶ εἰ μὴ φοβηθεῖς, ὥς ἀνεβόησεν, ἐγκαταλιπὼν τὴν μάχαιραν ἐν τῇ σφαγῇ ὥχητο φεύγων, ἀλλ' ἐτόλμησε μῆναι, ἀπώλONT' ἂν οἱ ἔνδον ὄντες ἅπαντες· οὐδεὶς γὰρ ἂν ὤιετο τὸν παῖδα 70 τολμῆσαί πc γε τοῦτο· νῦν δὲ συλληφθεὶς αὐτὸς ὕστερον κατεῖπεν αὐτοῦ. τοῦτο δὲ περὶ χρημάτων αἰτίαν ποτὲσχόντες οὐκ οὔσαν, ὥσπερ ἐγὼ νῦν, οἱ Ἑλληνοταμίαι οἱ ὑμέτεροι, ἐκείνοι μὲν ἅπαντες ἀπέθανον ὀργῇ μᾶλλον ἢ γνώμῃ, πλὴν ἑνός, τὸ δὲ 71 πρᾶγμα ὕστερον καταφανὲς ἐγένετο. τοῦ δ' ἑνός τούτου – Σωσίαν ὀνομά φασιν αὐτῷ εἶναι – κατέγνωστο μὲν ἤδη θάνατος, ἐτεθνήκει δὲ οὐπω· καὶ ἐν τούτῳ ἐδηλώθη τῷ τρόπῳ ἀπωλώλει τὰ χρήματα, καὶ ὁ ἀνὴρ ἀπήχθη ὑπὸ τοῦ δήμου τοῦ ὑμετέρου παραδεδομένος ἤδη τοῖς ἑνδεκα, οἱ δ' ἄλλοι 72 ἐτέθνασαν οὐδὲν αἷτιοι ὄντες. ταῦθ' ὑμῶν αὐτῶν ἐγὼ οἶμαι μεμνησθαι τοὺς πρεσβυτέρους, τοὺς δὲ νεωτέρους πυνθάνεσθαι ὥσπερ ἐμέ. οὕτως ἀγαθόν ἐστι μετὰ τοῦ χρόνου βασανίζειν τὰ πράγματα. καὶ τοῦτ' ἴσως φανερόν γένοιτ' ἂν ὕστερον, ὅτῳ τρόπῳ τέθηκεν ὁ ἄνθρωπος. μὴ οὖν ὕστερον τοῦτο γνῶτε, ἀναίτιόν με ὄντα ἀπολέσαντες, ἀλλὰ πρότερόν γ' εὖ 73 βουλευσασθε, καὶ μὴ μετ' ὀργῆς καὶ διαβολῆς, ὥς τούτων οὐκ ἂν γένοιοντο ἕτεροι πονηρότεροι σύμβουλοι. οὐ γὰρ ἔστιν ὅτι ἂν ὀργιζόμενος ἄνθρωπος εὖ γνοίῃ· αὐτὸ γὰρ ᾧ βουλεύεται, τὴν γνώμην, διαφθείρει τοῦ ἀνθρώπου. μέγα τοι ἡμέρα παρ' ἡμέραν γιγνομένη γνώμην, ᾧ ἄνδρες, ἐξ ὀργῆς μεταστῆσαι καὶ 73 τὴν ἀλήθειαν εὐρεῖν τῶν γεγενημένων. εὖ δὲ ἴστε ὅτι ἐλεθῆναι ὑφ' ὑμῶν ἄξιός εἰμι μᾶλλον ἢ δίκην δοῦναι· δίκην μὲν γὰρ εἰκός

ἐστι διδόναι τοὺς ἀδικοῦντας, ἐλεῖσθαι δὲ τοὺς ἀδίκως κινδυνεύοντας. κρεῖσσον δὲ χρή γίγνεσθαι αἰὲν τὸ ὑμέτερον δυνάμενον ἐμὲ δικάως σῶζειν ἢ τὸ τῶν ἐχθρῶν βουλούμενον ἀδίκως με ἀπολλύναι. ἐν μὲν γὰρ τῷ ἐπισχεῖν ἔστι καὶ τὰ δεινὰ ταῦτα ποιῆσαι ἃ οὗτοι κελεύουσιν· ἐν δὲ τῷ παραχρῆμα οὐκ ἔστιν ἀρχὴν ὀρθῶς βουλευέσθαι.

δεῖ δέ με καὶ ὑπὲρ τοῦ πατρὸς ἀπολογήσασθαι. καίτοι γε 74  
πολλῷ μᾶλλον εἰκὸς ἦν ἐκεῖνον ὑπὲρ ἐμοῦ ἀπολογήσασθαι πατέρα ὄντα· ὁ μὲν γὰρ πολλῷ πρεσβύτερός ἐστι τῶν ἐμῶν πραγμάτων, ἐγὼ δὲ πολλῷ νεώτερος τῶν ἐκείνῳ πεπραγμένων. καὶ εἰ μὲν ἐγὼ τούτου ἀγωνιζομένου κατε-  
μαρτύρουν ἃ μὴ σαφῶς ἦιδη, ἀκοῇ δὲ ἡπιστάμην, δεινὰ ἂν ἔφη  
πάσχειν ὑπ' ἐμοῦ· νῦν δὲ ἀναγκάζων ἐμὲ ἀπολογεῖσθαι ὧν ἐγὼ 75  
πολλῷ νεώτερός εἰμι καὶ λόγῳ οἶδα, ταῦτα οὐ δεινὰ ἡγεῖται εἰργάσθαι. ὅμως μέντοι καθ' ὅσον ἐγὼ οἶδα, οὐ προδῶσω τὸν πατέρα κακῶς ἀκούοντα ἐν ὑμῖν ἀδίκως. καίτοι τάχ' ἂν  
σφαλείην, ἃ ἐκεῖνος ὀρθῶς ἔργῳ ἔπραξε, ταῦτ' ἐγὼ λόγῳ μὴ  
ὀρθῶς εἰπών· ὅμως δ' οὖν κινδυνεύσεται. πρὶν μὲν γὰρ τὴν 76  
ἀπόστασιν τῶν Μυτιληναίων γενέσθαι, ἔργῳ τὴν εὐνοίαν ἐδείκνυε τὴν εἰς ὑμᾶς· ἐπειδὴ δὲ ἡ πόλις ὅλη κακῶς ἐβουλεύσατο ἀποστᾶσα καὶ ἡμαρτε τῆς ὑμετέρας γνώμης, μετὰ τῆς πόλεως ὅλης ἠναγκάσθη συνεξαμαρτεῖν. τὴν μὲν οὖν γνώμην ἔτι καὶ ἐν ἐκείνοις ὅμοιος ἦν εἰς ὑμᾶς, τὴν δὲ εὐνοίαν οὐκέτι ἦν ἐπ' ἐκείνῳ  
τὴν αὐτὴν εἰς ὑμᾶς παρέχεσθαι· οὔτε γὰρ ἐκλιπεῖν τὴν πόλιν  
εὐρόπως εἶχεν αὐτῷ, ἱκανὰ γὰρ ἦν τὰ ἐνέχυρα ἃ εἶχετο αὐτοῦ,  
οἱ τε παῖδες καὶ τὰ χρήματα, τοῦτο δ' αὖ μένοντι πρὸς τὴν  
πόλιν αὐτῷ ἀδυνάτως εἶχεν ἰσχυρίζεσθαι. ἐπεὶ δ' ὑμεῖς τοὺς 77  
αἰτίους τούτων ἐκολάσατε, ἐν οἷς οὐκ ἐφαίνετο ὧν ὁ ἐμὸς πατήρ, τοῖς δ' ἄλλοις Μυτιληναίοις ἄδειαν ἐδώκατε οἰκεῖν τὴν σφετέραν αὐτῶν, οὐκ ἔστιν ὃ τι ὕστερον αὐτῷ ἡμάρτηται, τῷ ἐμῷ πατρί, οὐδ' ὃ τι οὐ πεποίηται τῶν δεόντων, οὐδ' ἥς τινος ληιουργίας ἡ πόλις ἐνδεὴς γεγένηται, οὔτε ἡ ὑμέτερα οὔτε ἡ Μυτιληναίων, ἀλλὰ καὶ χορηγίας ἐχορήγει καὶ τέλη

- 78** κατατίθῃσιν. εἰ δ' ἐν Αἴνῳι χωροφιλεῖ, τοῦτο οὐκ ἀποστερῶν γε τῶν εἰς τὴν πόλιν ἑαυτὸν οὐδενὸς, οὐδ' ἑτέρας πόλεως πολίτης γεγενημένος, ὥσπερ ἑτέρους ὀρώ, τοὺς μὲν εἰς τὴν ἡπειρον ἰόντας, καὶ οἰκοῦντας ἐν τοῖς πολεμίοις τοῖς ὑμετέροις, <τοὺς δὲ> καὶ δίκας ἀπὸ ξυμβόλων ὑμῖν δικαζομένους, οὐδὲ φεύγων τὸ πλῆθος τὸ ὑμέτερον, τοὺς δ' οἴους ὑμεῖς μισῶν
- 79** συκοφάντας. ἃ μὲν οὖν μετὰ τῆς πόλεως ὅλης ἀνάγκῃ μᾶλλον ἢ γνώμῃ ἔπραξε, τούτων οὐ δίκαιός ἐστιν ὁ ἐμὸς πατὴρ ἰδίαι δίκην διδόναι. ἅπασι γὰρ Μυτιληναίοις ἀείμνηστος ἢ τότε ἀμαρτία γεγένηται· ἡλλάξαντο μὲν γὰρ πολλῆς εὐδαιμονίας πολλὴν κακοδαιμονίαν, ἐπεῖδον δὲ τὴν ἑαυτῶν πατρίδα ἀνάστατον γενομένην. ἃ δὲ ἰδίαι οὗτοι διαβάλλουσι τὸν ἐμὸν πατέρα, μὴ πείθεσθε· χρημάτων γὰρ ἔνεκα ἢ πᾶσα παρασκευὴ γεγένηται ἐπ' ἐμοὶ κἀκείνῳι. πολλὰ δὲ ἐστὶ τὰ συμβαλλόμενα τοῖς βουλομένοις τῶν ἀλλοτρίων ἐφίεσθαι, γέρων μὲν ἐκεῖνος ὥστ' ἐμοὶ βοηθεῖν, νεώτερος δ' ἐγὼ πολλῶι ἢ ὥστε δύνασθαι
- 80** ἑμαυτῶι τιμωρεῖν ἱκανῶς. ἀλλ' ὑμεῖς βοηθήσατέ μοι, καὶ μὴ διδάσκετε τοὺς συκοφάντας μεῖζον ὑμῶν αὐτῶν δύνασθαι. ἐὰν μὲν γὰρ εἰσιόντες εἰς ὑμᾶς ἃ βούλονται πράσσωσι, δεδιδαγμένον ἔσται τούτους μὲν πείθειν, τὸ δ' ὑμέτερον πλῆθος φεύγειν· ἐὰν δὲ εἰσιόντες εἰς ὑμᾶς πονηροὶ μὲν αὐτοὶ δοκῶσιν εἶναι, πλέον δ' αὐτοῖς μηδὲν γένηται, ὑμετέρα ἢ τιμὴ καὶ ἡ δύναμις ἔσται, ὥσπερ καὶ τὸ δίκαιον ἔχει. ὑμεῖς οὖν ἐμοὶ τε βοηθεῖτε καὶ τῶι δικαίῳι.
- 81** ὅσα μὲν οὖν ἐκ τῶν ἀνθρωπίνων τεκμηρίων καὶ μαρτυριῶν οἶά τε ἦν ἀποδειχθῆναι, ἀκηκόατε· χρὴ δὲ καὶ τοῖς ἀπὸ τῶν θεῶν σημείοις εἰς τὰ τοιαῦτα οὐχ ἥκιστα τεκμηραμένους ψηφίζεσθαι. καὶ γὰρ τὰ τῆς πόλεως κοινὰ τούτοις μάλιστα πιστεύοντες ἀσφαλῶς διαπράσσεσθε, τοῦτο μὲν τὰ εἰς τοὺς
- 82** κινδύνους ἦκοντα, τοῦτο δὲ εἰς τὰ ἔξω τῶν κινδύνων. χρὴ δὲ καὶ εἰς τὰ ἴδια ταῦτα μέγιστα καὶ πιστότατα ἡγεῖσθαι. οἶμαι γὰρ ὑμᾶς ἐπίστασθαι ὅτι πολλοὶ ἤδη ἄνθρωποι μὴ καθαροὶ χεῖρας ἢ ἄλλο τι μίasma ἔχοντες συνεισβάντες εἰς τὸ πλοῖον

συναπώλεσαν μετὰ τῆς αὐτῶν ψυχῆς τοὺς ὁσίως διακειμένους  
τὰ πρὸς τοὺς θεοὺς, τοῦτο δὲ ἤδη ἐτέρους ἀπολομένους μὲν οὐ,  
κινδυνεύσαντας δὲ τοὺς ἐσχάτους κινδύνους διὰ τοὺς τοιούτους  
ἀνθρώπους, τοῦτο δὲ ἱεροῖς παραστάντες πολλοὶ δὴ  
καταφανεῖς ἐγένοντο οὐχ ὅσοι ὄντες, καὶ διακωλύοντες τὰ  
ἱερὰ μὴ γίνεσθαι τὰ νομιζόμενα. ἐμοὶ τοίνυν ἐν πᾶσι τούτοις τὰ 83  
ἐναντία ἐγένετο. τοῦτο μὲν γὰρ ὅσοις συνέπλευσα, καλλίστοις  
ἐχρήσαντο πλοῖς· τοῦτο δὲ ὅπου ἱεροῖς παρέστην, οὐκ ἔστιν  
ὅπου οὐχὶ κάλλιστα τὰ ἱερὰ ἐγένετο. ἃ ἐγὼ ἀξιῶ μεγάλα μοι  
τεκμήρια εἶναι τῆς αἰτίας, ὅτι οὐκ ἀληθῆ μου οὗτοι  
κατηγοροῦσι. τούτων μάρτυρες.

#### Μάρτυρες

ἐπίσταμαι δὲ καὶ τάδε, ὧ ἄνδρες δικασταί, ὅτι εἰ μὲν ἐμοῦ κατε- 84  
μαρτύρουν οἱ μάρτυρες, ὥς τι ἀνόσιον γεγένηται ἐμοῦ  
παρόντος ἐν πλοίῳ ἢ ἐν ἱεροῖς, αὐτοῖς γε τούτοις ἰσχυροτάτοις  
ἂν ἐχρῶντο, καὶ πίστιν τῆς αἰτίας ταύτην σαφεστάτην  
ἀπέφαινον, τὰ σημεῖα τὰ ἀπὸ τῶν θεῶν· νῦν δὲ τῶν τε σημείων  
ἐναντίων τοῖς τούτων λόγοις γιγνομένων, τῶν τε μαρτύρων ἃ  
μὲν ἐγὼ λέγω μαρτυρούντων ἀληθῆ εἶναι, ἃ δ' οὗτοι  
κατηγοροῦσι ψευδῆ, τοῖς μὲν μαρτυροῦσιν ἀπιστεῖν ὑμᾶς  
κελεύουσι, τοῖς δὲ λόγοις οὓς αὐτοὶ λέγουσι πιστεύειν ὑμᾶς φασὶ  
χρῆναι. καὶ οἱ μὲν ἄλλοι ἄνθρωποι τοῖς ἔργοις τοὺς λόγους  
ἐλέγχουσιν, οὗτοι δὲ τοῖς λόγοις τὰ ἔργα ζητοῦσιν ἄπιστα  
καθιστάναι.

ὅσα μὲν οὖν ἐκ τῶν κατηγορηθέντων μέμνημαι, ὧ ἄνδρες, 85  
ἀπολελόγημαι· δέομαι δὲ καὶ ὑμῶν ἀποψηφίσασθαι. ταῦτα  
γὰρ ἐμέ τε σώζει, καὶ ὑμῖν νόμιμα καὶ εὖορκα γίγνεται. κατὰ  
γὰρ τοὺς νόμους ὠμόσατε δικάσειν· ἐγὼ δὲ καθ' οὓς μὲν  
ἀπήχθην, οὐκ ἔνοχός εἰμι τοῖς νόμοις, ὧν δ' ἔχω τὴν αἰτίαν,  
ἀγών μοι νόμιμος ὑπολείπεται. εἰ δὲ δύο ἐξ ἐνὸς ἀγῶνος  
γεγένησθον, οὐκ ἐγὼ αἴτιος, ἀλλ' οἱ κατήγοροι. καίτοι οὐ  
δήπου οἱ μὲν ἔχθιστοι οἱ ἐμοὶ δύο ἀγῶνας περὶ ἐμοῦ



- πεποιήκασιν, ὑμεῖς δὲ οἱ τῶν δικαίων ἴσοι κριταὶ προ-  
**86** καταγνώσεσθέ μου ἐν τῷδε τῷ ἀγῶνι τὸν φόνον. μὴ ὑμεῖς γε, ὦ ἄνδρες· ἀλλὰ δότε τι καὶ τῷ χρόνῳ μεθ' οὗ ὀρθότατα εὐρίσκουσιν οἱ τὴν ἀκρίβειαν ζητοῦντες τῶν πραγμάτων. ἡξίουν μὲν γὰρ ἔγωγε περὶ τῶν τοιούτων, ὦ ἄνδρες, εἶναι τὴν δίκην κατὰ τοὺς νόμους, κατὰ μέντοι τὸ δίκαιον ὡς πλειστάκις ἐλέγχεσθαι. τοσοῦτωι γὰρ ἄμεινον ἂν ἐγινώσκετο· οἱ γὰρ πολλοὶ ἀγῶνες τῇ μὲν ἀληθείᾳ σύμμαχοί εἰσι, τῇ δὲ διαβολῇ  
**87** πολεμιώτατοι. φόνου γὰρ δίκη καὶ μὴ ὀρθῶς γνωσθεῖσα ἰσχυρότερον τοῦ δικαίου καὶ τοῦ ἀληθοῦς ἐστίν· ἀνάγκη γάρ, ἐὰν ὑμεῖς μου καταψηφίσησθε, καὶ μὴ ὄντα φονέα μηδ' ἔνοχον τῷ ἔργῳ χρησθαι τῇ δίκῃ καὶ τῷ νόμῳ· καὶ οὐδεὶς ἂν τολμήσειεν οὔτε τὴν δίκην τὴν δεδικασμένην παραβαίνειν πιστεύσας αὐτῷ ὅτι οὐκ ἔνοχός ἐστιν, οὔτε ξυνειδῶς αὐτῷ τοιοῦτον ἔργον εἰργασμένῳ μὴ οὐ χρησθαι τῷ νόμῳ· ἀνάγκη δὲ τῆς δίκης νικᾶσθαι παρὰ τὸ ἀληθές, αὐτοῦ τε τοῦ ἀληθοῦς,  
**88** ἄλλως τε καὶ ἐὰν μὴ ἦι ὁ τιμωρήσων. αὐτῶν δὲ τούτων ἕνεκα οἱ τε νόμοι καὶ αἱ διωμοσίαι καὶ τὰ τόμια καὶ αἱ προρρήσεις, καὶ τᾶλλα ὅποσα γίγνεται τῶν δικῶν ἕνεκα τοῦ φόνου, πολὺ διαφέροντά ἐστιν ἢ καὶ ἐπὶ τοῖς ἄλλοις, ὅτι καὶ αὐτὰ τὰ πράγματα, περὶ ὧν οἱ κίνδυνοι, περὶ πλείστου ἐστὶν ὀρθῶς γινώσκεσθαι· ὀρθῶς μὲν γὰρ γνωσθέντα τιμωρία ἐστὶ τῷ ἀδικηθέντι, φονέα δὲ τὸν μὴ αἴτιον ψηφισθῆναι ἁμαρτία καὶ  
**89** ἀσέβειά ἐστιν εἰς τε τοὺς θεοὺς καὶ εἰς τοὺς νόμους. καὶ οὐκ ἴσον ἐστὶ τὸν τε διώκοντα μὴ ὀρθῶς αἰτιάσασθαι καὶ ὑμᾶς τοὺς δικαστὰς μὴ ὀρθῶς γινῶναι. ἡ μὲν γὰρ τούτων αἰτίαισιν οὐκ ἔχει τέλος, ἀλλ' ἐν ὑμῖν ἐστὶ καὶ τῇ δίκῃ· ὅ τι δ' ἂν ὑμεῖς ἐν αὐτῇ τῇ δίκῃ μὴ ὀρθῶς γινῶτε, τοῦτο οὐκ ἔστιν ὅποι ἂν τις ἀνενεγκῶν  
**90** τὴν ἁμαρτίαν ἀπολύσαιτο. πῶς ἂν οὖν ὀρθῶς δικάσαιτε περὶ αὐτῶν; εἰ τούτους τε ἐάσετε τὸν νομιζόμενον ὄρκον διομοσαμένους κατηγορεῖσθαι, κάμει περὶ αὐτοῦ τοῦ πράγματος ἀπολογήσασθαι. πῶς δὲ ἐάσετε; ἐὰν νυνὶ ἀποψηφίσησθέ μου. διαφεύγω γὰρ οὐδ' οὕτω τὰς ὑμετέρας γνώμας, ἀλλ' ὑμεῖς ἔσεσθε οἱ κάκεῖ περὶ ἐμοῦ διαψηφιζόμενοι. καὶ φεισαμένοις μὲν ὑμῖν ἐμοῦ νῦν ἔξεστι τότε χρησθαι ὅ τι ἂν βούλησθε, ἀπολέσασιν

δὲ οὐδὲ βουλευσασθαι ἔτι περὶ ἐμοῦ ἐγχωρεῖ. καὶ μὴν εἰ δέοι 91  
 ἀμαρτεῖν τι, τὸ ἀδίκως ἀπολῦσαι ὁσιώτερον ἂν εἴη τοῦ μὴ  
 δικαίως ἀπολέσαι· τὸ μὲν γὰρ ἀμάρτημα μόνον ἐστί, τὸ δὲ  
 ἕτερον καὶ ἀσέβημα. ἐν ᾧ χρή πολλὴν πρόνοιαν ἔχειν,  
 μέλλοντας ἀνήκεστον ἔργον ἐργάζεσθαι. ἐν μὲν γὰρ ἀκεστῶι  
 πράγματι καὶ ὀργῇ χρησαμένους καὶ διαβολῇ πιθομένους  
 ἔλαττον ἐστὶν ἐξαμαρτεῖν· μεταγνοὺς γὰρ ἔτι ἂν ὀρθῶς  
 βουλευσάιτο· ἐν δὲ τοῖς ἀνηκέστοις πλέον βλάβος τὸ μετανοεῖν  
 καὶ γινῶναι ἐξημαρτηκότας. ἤδη δὲ τισιν ὑμῶν καὶ μετεμέλησεν  
 ἀπολωλεκόσι. καίτοι ὅπου ὑμῖν τοῖς ἐξαπατηθεῖσι  
 μετεμέλησεν, ἢ καὶ πάνυ τοι χρή τοὺς γε ἐξαπατῶντας  
 ἀπολωλέναι. ἔπειτα δὲ τὰ μὲν ἀκούσια τῶν ἀμαρτημάτων ἔχει 92  
 συγγνώμην, τὰ δὲ ἐκούσια οὐκ ἔχει. τὸ μὲν γὰρ ἀκούσιον  
 ἀμάρτημα, ᾧ ἄνδρες, τῆς τύχης ἐστί, τὸ δὲ ἐκούσιον τῆς  
 γνώμης. ἐκούσιον δὲ πῶς ἂν εἴη μᾶλλον ἢ εἴ τις, ὧν βουλήν  
 ποιοῖτο, ταῦτα παραχρῆμα ἐξεργάζοιτο; καὶ μὴν τὴν ἴσην γε  
 δύναμιν ἔχει, ὅστις τε ἂν τῇ χειρὶ ἀποκτείνῃ ἀδίκως καὶ ὅστις 93  
 τῇ ψήφῳ. εὖ δ' ἴστε ὅτι οὐκ ἂν ποτ' ἤλθον εἰς τὴν πόλιν, εἴ τι  
 ξυνήϊδη ἐμαυτῶι τοιοῦτον· νῦν δὲ πιστεύων τῶι δικαίῳ, οὗ  
 πλέονος οὐδέν ἐστιν ἄξιον ἀνδρὶ συναγωνίζεσθαι, μηδὲν αὐτῶι  
 συνειδότι ἀνόσιον εἰργασμένῳ μῆτ' εἰς τοὺς θεοὺς ἡσεβηκότι·  
 ἐν γὰρ τῶι τοιούτῳ ἤδη καὶ τὸ σῶμα ἀπειρηκὸς ἢ ψυχὴ  
 συνεξέσωσεν, ἐθέλουσα ταλαιπωρεῖν διὰ τὸ μὴ ξυνειδέναι  
 ἑαυτῇ· τῶι δὲ ξυνειδότι τοῦτο αὐτὸ πρῶτον πολέμιόν ἐστιν·  
 ἔτι γὰρ καὶ τοῦ σώματος ἰσχύοντος ἢ ψυχῇ προαπολείπει,  
 ἡγουμένη τὴν τιμωρίαν οἱ ἦκειν ταύτην τῶν ἀσεβημάτων·  
 ἐγὼ δ' ἐμαυτῶι τοιοῦτον οὐδὲν ξυνειδῶς ἤκω εἰς ὑμᾶς. τὸ δὲ 94  
 τοὺς κατηγοροὺς διαβάλλειν οὐδέν ἐστι θαυμαστόν. τούτων  
 γὰρ ἔργον τοῦτο, ὑμῶν δὲ τὸ μὴ πείθεσθαι τὰ μὴ δίκαια. τοῦτο  
 μὲν γὰρ ἐμοὶ πειθομένοις ὑμῖν μεταμελῆσαι ἔστιν, καὶ τούτου  
 φάρμακον τὸ αὐθις κολάσαι, τοῦ δὲ τούτοις πειθομένους  
 ἐξεργάσασθαι ἃ οὗτοι βούλονται οὐκ ἔστιν ἴασις. οὔτε χρόνος  
 πολὺς ὁ διαφέρων, ἐν ᾧ ταῦτα νομίμως πράξεθ' ἢ νῦν ὑμᾶς

- παρανόμως πείθουσιν οἱ κατήγοροι ψηφίσασθαι. οὐ τοι τῶν  
 ἐπειγομένων ἐστὶ τὰ πράγματα, ἀλλὰ τῶν εὖ βουλευομένων.  
 νῦν μὲν οὖν γνωρισταὶ γίγνεσθε τῆς δίκης, τότε δὲ δικασταὶ τῶν  
 μαρτύρων· νῦν μὲν δοξασταί, τότε δὲ κριταὶ τῶν ἀληθῶν.  
 95 ῥᾷστον δέ τοι ἐστὶν ἀνδρὸς περὶ θανάτου φεύγοντος τὰ ψευδῆ  
 καταμαρτυρῆσαι. ἐὰν γὰρ τὸ παραχρῆμα μόνον πείσωσιν  
 ὥστε ἀποκτεῖναι, ἅμα τῷ σώματι καὶ ἡ τιμωρία ἀπόλωλεν.  
 οὐδὲ γὰρ οἱ φίλοι ἔτι θελήσουσιν ὑπὲρ ἀπολωλότος τιμωρεῖν·  
 96 ἐὰν δὲ καὶ βουλευθῶσιν, τί ἔσται πλέον τῷ γε ἀποθανόντι; νῦν  
 μὲν οὖν ἀποψηφίσασθέ μου· ἐν δὲ τῇ τοῦ φόνου δίκῃ οὗτοί τε  
 τὸν νομιζόμενον ὄρκον διομοσάμενοι ἐμοῦ κατηγορήσουσι, καὶ  
 ὑμεῖς περὶ ἐμοῦ κατὰ τοὺς κειμένους νόμους διαγνώσεσθε, καὶ  
 ἐμοὶ οὐδεὶς λόγος ἔσται ἔτι, ἐάν τι πάσχω, ὡς παρανόμως  
 ἀπωλόμην. ταῦτά τοι δέομαι ὑμῶν, οὔτε τὸ ὑμέτερον εὐσεβὲς  
 παρεῖς οὔτε ἐμαυτὸν ἀποστερῶν τὸ δίκαιον· ἐν δὲ τῷ ὑμετέρῳ  
 ὄρκῳ καὶ ἡ ἐμὴ σωτηρία ἔνεστι. πειθόμενοι δὲ τούτων ὅτῳ  
 βούλεσθε, ἀποψηφίσασθέ μου.

#### 6. Περὶ τοῦ χορευτοῦ

- 1 "Ἠδιστον μὲν, ὧ ἄνδρες δικασταί, ἀνθρώπῳ ὄντι μὴ γενέσθαι  
 μηδὲνα κίνδυνον περὶ τοῦ σώματος, καὶ εὐχόμενος ἂν τις  
 ταῦτα εὐξαιτο· εἰ <δ> ἄρα τις καὶ ἀναγκάζοιτο κινδυνεύειν,  
 τοῦτο γοῦν ὑπάρχειν, ὅπερ μέγιστον ἐγὼ νομίζω ἐν πράγματι  
 τοιούτῳ, αὐτὸν ἑαυτῷ συνειδέναι μηδὲν ἐξημαρτηκότι, ἀλλ' εἴ  
 2 γίγνεσθαι, καὶ τύχῃ μᾶλλον ἢ ἀδικίᾳ. καὶ τοὺς μὲν νόμους οἱ  
 κεῖνται περὶ τῶν τοιούτων πάντες ἂν ἐπαινέσειαν κάλλιστα  
 νόμων κεῖσθαι καὶ ὀσιώτατα. ὑπάρχει μὲν γὰρ αὐτοῖς  
 ἀρχαιοτάτοις εἶναι ἐν τῇ γῇ ταύτῃ, ἔπειτα τοὺς αὐτοὺς αἰεὶ  
 περὶ τῶν αὐτῶν, ὅπερ μέγιστον σημεῖον νόμων καλῶς  
 κειμένων· ὁ χρόνος γὰρ καὶ ἡ ἐμπειρία τὰ μὴ καλῶς ἔχοντα

5.95 ῥᾷστον δέ τοι Dobree: ἀραῖς τῶν δετοι A: lacunam habet N

6.1 δ' add. Aldus

διδάσκει τοὺς ἀνθρώπους. ὥστ' οὐ δεῖ ὑμᾶς ἐκ τῶν λόγων τοῦ  
 κατηγοροῦντος τοὺς νόμους μαθεῖν εἰ καλῶς ἔχουσιν ἢ μή, ἀλλ'  
 ἐκ τῶν νόμων τοὺς τούτων λόγους, εἰ ὀρθῶς ὑμᾶς καὶ νομίμως  
 διδάσκουσιν ἢ οὐ. ὁ μὲν οὖν ἀγὼν ἐμοὶ μέγιστος τῶι 3  
 κινδυνεύοντι καὶ διωκομένῳ. ἡγοῦμαι μέντοι γε καὶ ὑμῖν τοῖς  
 δικασταῖς περὶ πολλοῦ εἶναι τὰς φονικὰς δίκας ὀρθῶς  
 διαγιγνώσκειν, μάλιστα μὲν τῶν θεῶν ἔνεκα καὶ τοῦ εὐσεβοῦς,  
 ἔπειτα δὲ καὶ ὑμῶν αὐτῶν. ἔστι μὲν γὰρ περὶ τοῦ τοιοῦτου  
 [αὐτοῦ] μία δίκη· αὕτη δὲ μὴ ὀρθῶς καταγνωσθεῖσα 4  
 ἰσχυροτέρα ἐστὶ τοῦ δικαίου καὶ τοῦ ἀληθοῦς. ἀνάγκη γάρ, ἐὰν  
 ὑμεῖς καταψηφίσσησθε, καὶ μὴ ὄντα φονέα μηδὲ ἔνοχον τῶι ἔργῳ  
 χρήσασθαι τῇ δίκῃ, καὶ νόμῳ εἵργεσθαι πόλεως ἱερῶν  
 ἀγώνων θυσιῶν, ἅπερ μέγιστα καὶ παλαιότατα τοῖς  
 ἀνθρώποις. τοσαύτην γὰρ ἀνάγκην ὁ νόμος ἔχει ὥστε καὶ ἂν  
 τις κτείνῃ τινὰ ὧν αὐτὸς κρατεῖ καὶ μὴ ἔστιν ὁ τιμωρήσων, τὸ  
 νομιζόμενον καὶ τὸ θεῖον δεδιῶς ἀγνεύει τε ἑαυτὸν καὶ ἀφέξεται  
 ὧν εἴρηται ἐν τῶι νόμῳ, ἐλπίζων οὕτως ἂν ἄριστα πράξειν.  
 ἔστι μὲν γὰρ τὰ πλείω τοῖς ἀνθρώποις τοῦ βίου ἐν ταῖς ἐλπίσιν· 5  
 ἀσεβῶν δὲ καὶ παραβαίνων τὰ εἰς τοὺς θεοὺς καὶ αὐτῆς ἂν τῆς  
 ἐλπίδος, ὅπερ μέγιστόν ἐστι τοῖς ἀνθρώποις ἀγαθόν, αὐτὸς  
 αὐτὸν ἀποστεροίη. καὶ οὐδεὶς ἂν τολμήσειεν οὔτε τὴν δίκην τὴν  
 δεδικασμένην παραβαίνειν πιστεύσας ὅτι οὐκ ἔνοχός ἐστι τῶι  
 ἔργῳ, οὔτ' αὖ συνειδῶς αὐτὸς αὐτῶι ἔργον εἰργασμένος  
 τοιοῦτον μὴ οὐ χρῆσθαι τῶι νόμῳ· ἀνάγκη δὲ τῆς τε δίκης  
 νικᾶσθαι παρὰ τὸ ἀληθές, αὐτοῦ τε τοῦ ἀληθοῦς, κἂν μὴ ὁ  
 τιμωρήσων ᾖ. αὐτῶν δὲ τούτων ἔνεκα οἱ τε νόμοι καὶ αἱ 6  
 διωμοσίαι καὶ τὰ τόμια καὶ αἱ προρρήσεις, καὶ τᾶλλα ὅσα  
 γίνεταί τῶν δικῶν τοῦ φόνου ἔνεκα, πολὺ διαφέροντά ἐστιν ἢ  
 ἐπὶ τοῖς ἄλλοις, ὅτι καὶ αὐτὰ τὰ πράγματα, περὶ ὧν οἱ κίνδυνοι,  
 περὶ πλείστου ἐστὶν ὀρθῶς γιγνώσκεσθαι· ὀρθῶς μὲν γὰρ  
 γνωσθέντα τιμωρία ἐστὶν ὑπὲρ τοῦ ἀδικηθέντος, φονέα δὲ τὸν  
 μὴ αἴτιον ψηφισθῆναι ἀμαρτία καὶ ἀσέβεια εἰς τε τοὺς θεοὺς καὶ  
 τοὺς νόμους. καὶ οὐκ ἴσον ἐστὶ τὸν τε διώκοντα μὴ ὀρθῶς

καίτιάσασθαι καὶ ὑμᾶς τοὺς δικαστὰς μὴ ὀρθῶς ᾔγνωσι. ἡ μὲν γὰρ τοῦτου αἰτίασις οὐκ ἔχει νῦν τέλος, ἀλλ' ἐν ὑμῖν ἐστὶ καὶ τῇ δίκῃ· ὅτι δ' ἂν ὑμεῖς μὴ ὀρθῶς γνῶτε, τοῦτο οὐκ ἔστιν ὅποι ἂν ἀνενεγκῶν τις τὴν αἰτίαν ἀπολύσαιτο.

- 7 ἐγὼ δὲ, ὦ ἄνδρες, οὐ τὴν αὐτὴν γνώμην ἔχω περὶ τῆς ἀπολογίας ἢ περὶ οἱ κατηγοροὶ περὶ τῆς κατηγορίας. οὗτοι γὰρ τὴν μὲν δίωξιν εὐσεβείας ἕνεκά φασὶ ποιεῖσθαι καὶ τοῦ δικαίου, τὴν δὲ κατηγορίαν ἅπασαν πεποιήνται διαβολῆς ἕνεκα καὶ ἀπάτης, ὅπερ ἀδικώτατόν ἐστι τῶν ἐν ἀνθρώποις, καὶ οὐκ ἐλέγξαντες, εἴ τι ἀδικῶ, δικαίως με βούλονται τιμωρεῖσθαι, ἀλλὰ διαβάλλοντες, καὶ εἰ μηδὲν ἀδικῶ, ζημιῶσαι
- 8 καὶ ἐξελάσαι ἐν τῇ γῇ ταύτῃ. ἐγὼ δὲ ἀξιῶ πρῶτον μὲν περὶ αὐτοῦ τοῦ πράγματος κρίνεσθαι, καὶ διηγῆσασθαι ἐν ὑμῖν τὰ γενόμενα πάντα· ἔπειτα περὶ τῶν ἄλλων ὧν οὗτοι κατηγοροῦσιν, ἐὰν ὑμῖν ἡδομένοις, βουλήσομαι ἀπολογήσασθαι. ἡγοῦμαι γάρ μοι τιμὴν καὶ ὠφέλειαν αὐτὰ
- 9 οἶσιν, τοῖς δὲ κατηγοροῖς καὶ τοῖς ἐπηρεάζουσιν αἰσχύνην· ἐπεὶ τοί γε καὶ δεινόν, ὦ ἄνδρες, ἵνα μὲν ἐξῇν αὐτοῖς, εἴ τι ἡδίκουν ἐγὼ τὴν πόλιν ἢ ἐν χορηγαίᾳ ἢ ἐν ἄλλοις τισίν, ἀποφῆνασι καὶ ἐξελέγξασιν ἄνδρα τε ἐχθρόν τιμωρῆσασθαι καὶ τὴν πόλιν ὠφελῆσαι, ἐνταῦθα μὲν οὐδεὶς πώποτε οἷός τε ἐγένετο αὐτῶν οὔτε μικρόν οὔτε μέγα ἐξελέγξαι ἀδικοῦντα τόνδε τὸν ἄνδρα τὸ πλῆθος τὸ ὑμέτερον· ἐν δὲ τούτῳ τῷ ἀγῶνι, φόνου διώκοντες καὶ τοῦ νόμου οὕτως ἔχοντος, εἰς αὐτὸ τὸ πρᾶγμα κατηγορεῖν, μηχανῶνται ἐπ' ἐμοὶ λόγους ψευδεῖς συντιθέντες καὶ διαβάλλοντες τὰ εἰς τὴν πόλιν. καὶ τῇ μὲν πόλει, εἴπερ ἀδικεῖται, κατηγορίαν ἀντὶ τιμωρίας ἀπονέμουσιν, αὐτοὶ δὲ ὁ τὴν πόλιν φασὶν ἀδικεῖσθαι, τούτου ἰδίαι ἀξιοῦσι δίκην
- 10 λαμβάνειν. καίτοι αὗται αἱ κατηγορίαι οὔτε χάριτος ἄξια οὔτε πίστεως. οὔτε γὰρ δὴ οὗ ἡ πόλις ἐλάβανεν ἂν δίκην εἴ τι ἡδίκητο, ἐνταῦθα τὴν κατηγορίαν ποιεῖται, ὥστε χάριτος ἄξιον εἶναι τῇ πόλει· οὔτε ὅστις εἰς ἄλλα κατηγορεῖ ἢ ἃ διώκει

6.6 αἰτιάσασθαι . . . ὀρθῶς add. Aldus

6.9 εἴπερ Blass: εἰ μὲν AN ὁ Cobet: οὗ Thalheim: ὦ A: ὦ N

ἐν πράγματι τοιούτῳ, πιστεῦσαι δὴπου αὐτῷ ἀξιώτερόν ἐστιν ἢ ἀπιστῆσαι. ἐγὼ δὲ σχεδὸν ἐπίσταμαι τὴν ὑμετέραν γνώμην, ὅτι οὐτ' ἂν καταψηφίσαισθε οὐτ' ἂν ἀποψηφίσαισθε ἑτέρου τινὸς ἔνεκα μᾶλλον ἢ αὐτοῦ τοῦ πράγματος· ταῦτα γὰρ καὶ ὅσια καὶ δίκαια. ἄρξομαι δὲ ἐντεῦθεν.

ἐπειδὴ χορηγὸς κατεστάθην εἰς Θαργῆλια καὶ ἔλαχον 11  
 Παντακλέα διδάσκαλον καὶ Κεκροπίδα φυλὴν πρὸς τῇ ἔμαντοῦ, [τουτέστι τῇ Ἑρεχθίδι.] ἐχορήγουν ὡς ἄριστα ἐδυνάμην καὶ δικαιοτάτα. καὶ πρῶτον μὲν διδασκαλεῖον ἤν' ἦν ἐπιτηδειότατον τῆς ἐμῆς οἰκίας κατεσκεύασα, ἐν ᾧ περ καὶ Διονυσίοις ὅτε ἐχορήγουν ἐδίδασκον· ἔπειτα τὸν χορὸν συνέλεξα ὡς ἐδυνάμην ἄριστα, οὔτε ζημιώσας οὐδένα οὔτε ἐνέχυρα βίαι φέρων οὐτ' ἀπεχθανόμενος οὐδενί, ἀλλ' ὥσπερ ἂν ἥδιστα καὶ ἐπιτηδειότατα ἀμφοτέροις ἐγίγνετο, ἐγὼ μὲν ἐκέλευον καὶ ἡτιούμην, οἱ δ' ἐκόντες καὶ βουλόμενοι ἔπεμπον. ἐπεὶ δὲ ἦκον οἱ παῖδες, πρῶτον μὲν μοι ἀσχολία ἦν παρεῖναι καὶ 12  
 ἐπιμελεῖσθαι· ἐτύγχανε γάρ μοι πράγματα ὄντα πρὸς Ἀριστίωνα καὶ Φιλῖνον, ἃ ἐγὼ περὶ πολλοῦ ἐποιοούμην, ἐπειδὴ περ εἰσήγγειλα, ὀρθῶς καὶ δικαίως ἀποδεῖξαι τῇ βουλῇ καὶ τοῖς ἄλλοις Ἀθηναίοις. ἐγὼ μὲν οὖν τούτοις προσεῖχον τὸν νοῦν, κατέστησα δὲ ἐπιμελεῖσθαι, εἴ τι δέοι τῷ χορῷ, Φανόστρατον, δημότην μὲν τούτων τῶν διωκόντων, κηδεστὴν δ' ἔμαντοῦ, ᾧ ἐγὼ δέδωκα τὴν θυγατέρα, καὶ ἡξίου ἀὐτὸν ἄριστα ἐπιμελεῖσθαι· ἔτι δὲ πρὸς τούτῳ δύο ἄνδρας, τὸν 13  
 μὲν Ἑρεχθίδος Ἀμεινίαν, ὃν αὐτοὶ οἱ φυλέται ἐψηφίσαντο συλλέγειν καὶ ἐπιμελεῖσθαι τῆς φυλῆς ἐκάστοτε, δοκοῦντα χρηστὸν εἶναι, τὸν δ' ἕτερον τῆς Κεκροπίδος, ὅσπερ ἐκάστοτε εἴωθεν ταύτην τὴν φυλὴν συλλέγειν· ἔτι δὲ τέταρτον Φίλιππον, ᾧ προσετέτακτο ὠνεῖσθαι καὶ ἀναλίσκειν εἴ τι φράζοι ὁ διδάσκαλος ἢ ἄλλος τις τούτων, ὅπως ἄριστα χορηγοῖντο οἱ παῖδες καὶ μηδενὸς ἐνδεεῖς εἶεν διὰ τὴν ἐμὴν ἀσχολίαν. καθειστήκει μὲν ἡ χορηγία οὕτω. καὶ τούτων εἴ τι ψεύδομαι 14  
 προφάσεως ἔνεκα, ἔξεστι τῷ κατηγόρῳ ἐξελέγξαι ἐν τῷ

ύστερῳ λόγῳ ὅτι ἂν βούληται [εἰπεῖν]· ἐπεὶ τοι οὕτως ἔχει, ὦ ἄνδρες· πολλοὶ τῶν περισσώτων τούτων τὰ μὲν πράγματα ταῦτα πάντα ἀκριβῶς ἐπίστανται, καὶ τοῦ ὀρκωτοῦ ἀκούουσι, καὶ ἐμοὶ προσέχουσι τὸν νοῦν ἅττα ἐγὼ ἀποκρίνομαι, οἷς ἐγὼ βουλοίμην ἂν δοκεῖν αὐτός τε εὖορκος εἶναι καὶ ὑμᾶς τάληθῃ λέγων πείσαι ἀποψηφίσασθαι μου.

- 15 πρῶτον μὲν οὖν ἀποδείξω ὑμῖν ὅτι οὔτε ἐκέλευσα πιεῖν τὸν παῖδα τὸ φάρμακον οὔτ' ἠνάγκασα οὔτ' ἔδωκα καὶ οὐδὲ παρῆν ὅτ' ἔπιεν. καὶ οὐ τούτου ἔνεκα ταῦτα σφόδρα λέγω, ὥς ἐμαυτὸν ἔξω αἰτίας καταστήσω, ἕτερον δέ τινα εἰς αἰτίαν ἀγάγω· οὐ δῆτα ἔγωγε, πλήν γε τῆς τύχης, ἥπερ οἶμαι καὶ ἄλλοις πολλοῖς ἀνθρώπων αἰτία ἐστὶν ἀποθανεῖν· ἦν οὔτ' ἂν ἐγὼ οὔτ' ἄλλος οὐδεὶς οἷός τ' ἂν εἴη ἀποστρέψαι μὴ οὐ γενέσθαι ἥντινα δεῖ ἐκάστωι.

#### Μάρτυρες

- 16 μεμαρτύρηται μὲν οὖν, ὦ ἄνδρες, περὶ τοῦ πράγματος ἃ ἐγὼ ὑμῖν ὑπεσχόμην· ἐξ αὐτῶν δὲ τούτων χρή σκοπεῖν ἃ τε οὗτοι διωμόσαντο καὶ ἃ ἐγὼ, πότεροι ἀληθέστερα καὶ εὖορκότερα. διωμόσαντο δὲ οὗτοι μὲν ἀποκτεῖναί με Διόδοτον βουλευσάντα τὸν θάνατον, ἐγὼ δὲ μὴ ἀποκτεῖναι, μήτε χειρὶ ἀράμενος μήτε
- 17 βουλευσας. αἰτιῶνται δὲ οὗτοι μὲν ἐκ τούτων, ὥς αἴτιος ὅς ἐκέλευσε πιεῖν τὸν παῖδα τὸ φάρμακον ἢ ἠνάγκασεν ἢ ἔδωκεν· ἐγὼ δ' ἐξ αὐτῶν τούτων ὧν αἰτιῶνται οὗτοι ἀποφανῶ ὅτι οὐκ ἔνοχός εἰμι· οὔτε γὰρ ἐκέλευσα οὔτ' ἔδωκα οὔτ' ἠνάγκασα· καὶ ἐπιπροστίθημι αὐτοῖς ὅτι οὐ παρεγενόμην πίνοντι. καὶ εἴ φασιν ἀδικεῖν εἴ τις ἐκέλευσεν, ἐγὼ οὐκ ἀδικῶ· οὐ γὰρ ἐκέλευσα. καὶ εἴ φασιν ἀδικεῖν εἴ τις ἠνάγκασεν, ἐγὼ οὐκ ἀδικῶ· οὐ γὰρ ἠνάγκασα. καὶ εἰ τὸν δόντα τὸ φάρμακόν φασιν αἴτιον εἶναι,
- 18 ἐγὼ οὐκ αἴτιος· οὐ γὰρ ἔδωκα. αἰτιάσασθαι μὲν οὖν καὶ καταψεύσασθαι ἔξεστι τῷ βουλομένῳ· αὐτὸς γὰρ ἕκαστος τούτου κρατεῖ· γενέσθαι μέντοι τὰ μὴ γενόμενα καὶ ἀδικεῖν τὸν μὴ ἀδικοῦντα οὐκ ἐν τοῖς τούτων λόγοις ἡγοῦμαι εἶναι, ἀλλ' ἐν

τῷ δικαίῳ καὶ τῷ ἀληθεῖ. ὅποσα μὲν γὰρ λάθρα πράττεται καὶ ἐπὶ θανάτῳ βουλευθέντα, ὧν μὴ εἰσι μάρτυρες, ἀνάγκη περὶ τῶν τοιούτων ἐξ αὐτῶν τῶν λόγων τῶν τε τοῦ κατηγοροῦ καὶ τοῦ ἀποκρινομένου τὴν διάγνωσιν ποιεῖσθαι καὶ θηρεύειν καὶ ἐπὶ σμικρὸν ὑπονοεῖν τὰ λεγόμενα, καὶ εἰκάζοντας μᾶλλον ἢ σάφα εἰδότας ψηφίζεσθαι περὶ τῶν πραγμάτων· ὅπου δὲ πρῶτον μὲν αὐτοὶ οἱ κατήγοροι ὁμολογοῦσι μὴ ἐκ 19  
προνοίας μηδ' ἐκ παρασκευῆς γενέσθαι τὸν θάνατον τῷ παιδί, ἔπειτα τὰ πραχθέντα φανερώς ἅπαντα πραχθῆναι καὶ ἐναντίον μαρτύρων πολλῶν, καὶ ἀνδρῶν καὶ παίδων, καὶ ἐλευθέρων καὶ δούλων, ἐξ ὧν περ καὶ εἴ τις τι ἡδίκηκε, φανερώτατος ἂν εἴη, καὶ εἴ τις μὴ ἀδικοῦντα αἰτιῶιτο, μάλιστα ἐξελέγχοιτο.

ἄξιον δ' ἐνθυμηθῆναι, ὧ ἄνδρες, ἀμφότερα καὶ τῆς γνώμης 20  
τῶν ἀντιδίκων καὶ οἷω τρόπῳ ἔρχονται ἐπὶ τὰ πράγματα. ἐξ ἀρχῆς γὰρ οὐδὲν ὁμοίως οὗτοί τε πρὸς ἐμὲ πράττουσι καὶ ἐγὼ πρὸς τούτους. ἔλεξε μὲν γὰρ Φιλοκράτης οὕτοσί ἀναβὰς εἰς 21  
τὴν ἡλιαίαν τὴν τῶν θεσμοθετῶν, τῇ ἡμέρᾳ ἣ ὁ παῖς ἐξεφέρετο, ὅτι ἀδελφὸν αὐτοῦ ἀποκτείναιμι ἐγὼ ἐν τῷ χορῷ, φάρμακον ἀναγκάσας πιεῖν. ἐπειδὴ δὲ οὗτος ταῦτα ἔλεγεν, ἀναβὰς ἐγὼ εἰς τὸ δικαστήριον τοῖς αὐτοῖς δικασταῖς ἔλεξα ὅτι τὸν μὲν νόμον οὐ δίκαιον [οὐ] προκαθισταίῃ Φιλοκράτης κατηγορῶν καὶ διαβάλλων εἰς τὸ δικαστήριον, μελλόντων 22  
ἔσεσθαι μοι ἀγώνων πρὸς Ἀριστίωνα καὶ Φιλῖνον αὔριον <καὶ> τῇ ἑνῇ, ὧν περ ἕνεκα τοὺς λόγους τούτους λέγοι· ἃ μέντοι αἰτιῶιτο καὶ διαβάλλοι, ραϊδίως ἐξελεγχθήσοιτο ψευδόμενος· εἶεν γὰρ οἱ συνειδότες πολλοί, καὶ ἐλεύθεροι καὶ δοῦλοι, καὶ νεώτεροι καὶ πρεσβύτεροι, σύμπαντες πλείους ἢ πεντήκοντα, οἱ τοὺς τε λόγους τοὺς λεχθέντας περὶ τῆς πόσεως τοῦ φαρμάκου καὶ τὰ πραχθέντα καὶ τὰ λεγόμενα πάντα ἠπίσταντο.

καὶ εἰπόν τε ταῦτα ἐν τῷ δικαστηρίῳ, καὶ προῦκαλούμην 23  
αὐτὸν εὐθύς τότε, καὶ αὖθις τῇ ὑστεραίᾳ ἐν τοῖς αὐτοῖς



- δικασταῖς, καὶ ἰέναι ἐκέλευον λαβόντα μάρτυρας ὅπόσους βούλοιτο ἐπὶ τοὺς παραγενομένους, λέγων αὐτῷ ὀνόματι ἕκαστον, τούτους ἐρωτᾶν καὶ ἐλέγχειν, τοὺς μὲν ἐλευθέρους ὡς χρή τοὺς ἐλευθέρους, οἱ σφῶν ἕνεκα καὶ τοῦ δικαίου ἔφραζον ἂν τάληθῇ καὶ τὰ γενόμενα, τοὺς δὲ δούλους, εἰ μὲν αὐτῷ ἐρωτῶντι τάληθῇ δοκοῖεν λέγειν, εἰ δὲ μή, ἔτοιμος εἶην διδόναι βασανίζειν τοὺς τε ἑμαυτοῦ πάντας, καὶ εἴ τινας τῶν ἀλλοτρίων κελεύοι, ὡμολόγουν πείσας τὸν δεσπότην
- 24 παραδώσειν αὐτῷ βασανίζειν τρόπῳ ὁποῖω βούλοιτο. καὶ ταῦτα ἑμοῦ προκαλουμένου καὶ λέγοντος ἐν τῷ δικαστηρίῳ, οὗ καὶ αὐτοὶ οἱ δικασταὶ καὶ ἕτεροι ἰδιῶται πολλοὶ μάρτυρες παρῆσαν, οὔτε τότε παραχρῆμα οὔτε ὕστερον ἐν παντὶ τῷ χρόνῳ οὐδεπώποτε ἠθέλησαν ἐλθεῖν ἐπὶ τοῦτο τὸ δίκαιον, εὖ εἰδότες ὅτι οὐκ ἂν τούτοις κατ' ἑμοῦ ἔλεγχος ἐγίνετο οὗτος, ἀλλ' ἑμοὶ κατὰ τούτων, ὅτι οὐδὲν δίκαιον οὐδ' ἀληθὲς ἠιτιῶντο.
- 25 ἐπίστασθε δέ, ὦ ἄνδρες, ὅτι αἱ ἀνάγκαι αὗται ἰσχυρόταται καὶ μέγισταί εἰσι τῶν ἐν ἀνθρώποις, καὶ ἔλεγχοι ἐκ τούτων σαφέστατοι καὶ πιστότατοι περὶ τοῦ δικαίου, ὅπου εἶεν μὲν ἐλεύθεροι πολλοὶ οἱ συνειδότες, εἶεν δὲ δοῦλοι, καὶ ἐξείη μὲν τοὺς ἐλευθέρους ὄρκοις καὶ πίστεσιν ἀναγκάζειν, ἃ τοῖς ἐλευθέροις μέγιστα καὶ περὶ πλείστου ἐστίν, ἐξείη δὲ τοὺς δούλους ἐτέραις ἀνάγκαις, ὑφ' ὧν καὶ ἦν μέλλωσιν ἀποθανεῖσθαι κατειπόντες, ὅμως ἀναγκάζονται τάληθῇ λέγειν· ἡ γὰρ παροῦσα ἀνάγκη
- 26 ἐκάστῳ ἰσχυροτέρα ἐστὶ τῆς μελλούσης ἔσεσθαι. εἰς πάντα τοίνυν ἐγὼ ταῦτα προὔκαλεσάμην τούτους, καὶ ἐξ ὧν γε χρή ἄνθρωπον ὄντα τάληθῇ καὶ τὰ δίκαια πυνθάνεσθαι, ἐξῆν αὐτοῖς πυνθάνεσθαι, καὶ πρόφασιν οὐδεμίαν ὑπελείπετο. καὶ ἐγὼ μὲν ὁ τὴν αἰτίαν ἔχων καὶ ἀδικῶν, ὡς οὗτοί φασιν, ἔτοιμος ἦν αὐτοῖς κατ' ἑμαυτοῦ παρέχειν ἔλεγχον τὸν δικαιοτάτον· οἱ δ' αἰτιώμενοι καὶ φάσκοντες ἀδικεῖσθαι αὐτοὶ ἦσαν οἱ οὐκ
- 27 ἐθέλοντες ἐλέγχειν εἴ τι ἠδικοῦντο. καὶ εἰ μὲν ἐγὼ τούτων προκαλουμένων μὴ ἠθέλησα τοὺς παραγενομένους ἀποφῆναι, <ἦ> θεράποντας ἐξαιτοῦσι μὴ ἤθελον ἐκδιδόναι, ἢ ἄλλην τινὰ

πρόκλησιν ἔφευγον, αὐτὰ ἂν ταῦτα μέγιστα τεκμήρια κατ' ἐμοῦ ἐποιοῦντο ὅτι ἀληθῆς ἦν ἡ αἰτία· ἐπεὶ δ' ἐμοῦ προκαλουμένου οὗτοι ἦσαν οἱ φεύγοντες τὸν ἔλεγχον, ἐμοὶ δήπου δίκαιον κατὰ τούτων τὸ αὐτὸ τοῦτο τεκμήριον γενέσθαι, ὅτι οὐκ ἀληθῆς ἦν ἡ αἰτία ἢν αἰτιῶνται κατ' ἐμοῦ. ἐπίσταμαι δὲ καὶ τάδε, ὦ ἄνδρες, ὅτι εἰ μὲν τούτοις ἐμοῦ κατε- 28  
 μαρτύρουν οἱ μάρτυρες οἱ παραγενόμενοι, αὐτοῖς ἂν τούτοις ἰσχυροτάτοις ἐχρῶντο καὶ πίστιν ταύτην σαφεστάτην ἀπέφαινον, τοὺς μάρτυρας τοὺς καταμαρτυροῦντας· τῶν αὐτῶν δὲ τούτων μαρτυρούντων, ἃ μὲν ἐγὼ λέγω, ἀληθῆ εἶναι, ἃ δὲ οὗτοι λέγουσιν, οὐκ ἀληθῆ, τοῖς μὲν μάρτυσι τοῖς μαρτυροῦσιν ἀπιστεῖν ὑμᾶς διδάσκουσι, τοῖς δὲ λόγοις οἷς αὐτοὶ λέγουσι πιστεῦειν ὑμᾶς φασι χρῆναι, οὓς ἐγὼ εἰ ἔλεγον ἄνευ μαρτύρων, ψευδεῖς ἂν κατηγοροῦν εἶναι. καίτοι δεινὸν εἰ οἱ 29  
 αὐτοὶ μάρτυρες τούτοις μὲν ἂν μαρτυροῦντες πιστοὶ ἦσαν, ἐμοὶ δὲ μαρτυροῦντες ἄπιστοι ἔσονται. καὶ εἰ μὲν πάνυ μὴ παρεγένοντο μάρτυρες, ἐγὼ δὲ παρειχόμεν, ἢ τοὺς παραγενομένους μὴ παρειχόμεν, ἐτέρους δέ τινας, εἰκότως ἂν οἱ τούτων λόγοι πιστότεροι ἦσαν τῶν ἐμῶν μαρτύρων· ὅπου δὲ μάρτυράς τε ὁμολογοῦσι παραγενέσθαι, καὶ ἐγὼ τοὺς παραγενομένους παρέχομαι, <καὶ> εὐθύς ἀπὸ τῆς πρώτης ἡμέρας καὶ αὐτὸς ἐγὼ καὶ οἱ μάρτυρες ἅπαντες φανεροὶ ἐσμεν λέγοντες ἅπερ νυνὶ πρὸς ὑμᾶς, πόθεν χρή, ὦ ἄνδρες, ἢ τάληθῃ πιστὰ ἢ τὰ μὴ ἀληθῆ ἄπιστα ποιεῖν ἄλλοθεν ἢ ἐκ τῶν τοιούτων; ὅπου μὲν γὰρ λόγῳ τις διδάσκει περὶ τῶν πραχθέντων, 30  
 μάρτυρας δὲ μὴ παρέχοιτο, μαρτύρων ἂν τις τοὺς λόγους τούτους ἐνδεεῖς φαίη εἶναι· ὅπου δὲ μάρτυρας μὲν παρέχοιτο, τεκμήρια δὲ αὐτοῖς μαρτυροῦσιν ὅμοια μὴ ἀποφαίνοιτο, ταῦτα ἂν τις ἔχοι εἰπεῖν, εἰ βούλοιτο. ἐγὼ τοίνυν τοὺς τε λόγους ὑμῖν 31  
 εἰκότας ἀποφαίνω, καὶ τοῖς λόγοις τοὺς μάρτυρας ὁμολογοῦντας καὶ τοῖς μάρτυσι τὰ ἔργα, καὶ τεκμήρια ἐξ

6.29 καὶ add. Reiske

6.30 ἀποφαίνοιτο *N*: ἀποφαίνοντο *A*: ἀποφαίνοι *Resike* ταῦτα *Reiske*: ταῦτα *AN*

- αὐτῶν τῶν ἔργων, καὶ ἔτι πρὸς τούτοις δύο τῶ μεγίστῳ καὶ ἰσχυροτάτῳ, τούτους μὲν αὐτοὺς τε ὑπὸ σφῶν αὐτῶν ἐξελεγχομένους καὶ ὑπ' ἐμοῦ, ἐμὲ δὲ ὑπὸ τε τούτων καὶ ὑπὸ
- 32 ἐμαυτοῦ ἀπολυόμενον· ὅπου γὰρ ἐμοῦ ἐθέλοντος ἐλέγχεσθαι περὶ ὧν ἡτιῶντο οὗτοι μὴ ἤθελον ἐλέγχειν, ἡδίκουν, καὶ ἐμὲ μὲν δῆπου ἀπέλυνον, αὐτοὶ δὲ κατὰ σφῶν αὐτῶν μάρτυρες ἐγένοντο, ὅτι οὐδὲν δίκαιον οὐδ' ἀληθὲς ἡτιῶντο. καίτοι εἰ πρὸς τοῖς ἐμαυτοῦ μάρτυσι τοὺς ἀντιδίκους αὐτοὺς μάρτυρας παρέχομαι, ποῖ ἔτι ἐλθόντα δεῖ ἢ πόθεν ἀποδείξαντα τῆς αἰτίας ἀπολελύσθαι;
- 33 ἡγοῦμαι μὲν οὖν καὶ ἐκ τῶν εἰρημένων καὶ ἀποδεδειγμένων, ὧ ἄνδρες, δικαίως ἂν μου ἀποψηφίσασθαι ὑμᾶς, καὶ ἐπίστασθαι ἅπαντας ὅτι οὐδὲν μοι προσήκει τῆς αἰτίας ταύτης. ἵνα δ' ἔτι καὶ ἄμεινον μάθητε, τούτου ἕνεκα πλείω λέξω, καὶ ἀποδείξω ὑμῖν τοὺς κατηγοροὺς τούτους ἐπιорκοτάτους ὄντας καὶ ἀσεβεστάτους ἀνθρώπων, καὶ ἀξίους οὐ μόνον ὑπ' ἐμοῦ μισεῖσθαι, ἀλλὰ καὶ ὑφ' ὑμῶν πάντων καὶ
- 34 τῶν ἄλλων πολιτῶν τῆς δίκης ἕνεκα ταυτησί. οὗτοι γὰρ τῇ μὲν πρώτῃ ἡμέρῃ ἣ ἀπέθανεν ὁ παῖς, καὶ τῇ ὑστεραίᾳ ἣ προέκειτο, οὐδ' αὐτοὶ ἡξίουσαν αἰτιᾶσθαι ἐμὲ οὐδ' ἀδικεῖν ἐν τῷ πράγματι τούτῳ οὐδέν, ἀλλὰ συνῆσαν ἐμοὶ καὶ διελέγοντο· τῇ δὲ τρίτῃ ἡμέρῃ ἣ ἐξεφέρετο ὁ παῖς, ταύτῃ δὲ πεπεισμένοι ἦσαν [τινες] ὑπὸ τῶν ἐχθρῶν τῶν ἐμῶν, καὶ παρεσκευάζοντο αἰτιᾶσθαι καὶ προαγορεύειν εἶργεσθαι τῶν νομίμων. τίνες οὖν ἦσαν οἱ πείσαντες αὐτούς; καὶ τίνος ἕνεκα καὶ πρόθυμοι ἐγένοντο πείσαι αὐτούς; δεῖ γάρ με καὶ ταῦτα ὑμᾶς διδάξαι.
- 35 κατηγορήσιν ἔμελλον Ἀριστίωνος καὶ Φιλίνου καὶ Ἀμπελίνου καὶ τοῦ ὑπογραμματέως τῶν θεσμοθετῶν, μεθ' οὗπερ συνέκλεπτον, περὶ ὧν εἰσήγγειλα εἰς τὴν βουλὴν. καὶ αὐτοῖς ἐκ μὲν τῶν πεπραγμένων οὐδεμία ἦν ἐλπίς ἀποφεύγεσθαι – τοιαῦτα ἄρ' ἦν τὰ ἡδικημένα· πείσαντες δὲ τούτους ἀπογράφεσθαι καὶ προαγορεύειν ἐμοὶ εἶργεσθαι τῶν νομίμων, ἡγήσαντο ταύτην σφίσιν ἔσεσθαι σωτηρίαν καὶ ἀπαλλαγὴν

τῶν πραγμάτων ἀπάντων. ὁ γὰρ νόμος οὕτως ἔχει, ἐπειδάν 36  
 τις ἀπογραφῇ φόνου δίκην, εἵργεσθαι τῶν νομίμων· καὶ οὐτ' ἂν  
 ἐγὼ οἶός τ' ἦν ἐπεξελθεῖν εἰργόμενος τῶν νομίμων, ἐκεῖνοί τε  
 ἐμοῦ τοῦ εἰσαγγεῖλαντος καὶ ἐπισταμένου τὰ πράγματα μὴ  
 ἐπεξιόντος ῥαιδίως ἔμελλον ἀποφεύξεσθαι καὶ δίκην οὐ δώσειν  
 ὑμῖν ὧν ἠδίκησαν. καὶ τοῦτο οὐκ ἐπ' ἐμοὶ πρῶτον  
 ἐμηχανήσαντο Φιλῖνος καὶ οἱ ἕτεροι, ἀλλὰ καὶ ἐπὶ 37  
 Λυσιστράτῳ πρότερον, ὥς αὐτοὶ ὑμεῖς ἠκούσατε. καὶ οὗτοι  
 τότε μὲν πρόθυμοι ἦσαν ἀπογράφεσθαι με εὐθύς τῇ ὑστεραίᾳ  
 ἢ ὁ παῖς ἐθάπτετο, πρὶν τὴν οἰκίαν καθῆραι καὶ τὰ νομιζόμενα  
 ποιῆσαι, αὐτὴν ταύτην φυλάξαντες τὴν ἡμέραν ἐν ἣ ἔμελλεν ὁ  
 πρῶτος ἐκείνων κριθήσεσθαι, ὅπως μὴδὲ καθ' ἐνὸς αὐτῶν οἶός  
 τε γενοίμην ἐπεξελθεῖν μὴδ' ἐνδείξαι τῷ δικαστηρίῳ  
 τὰδικήματα· ἐπειδὴ δὲ αὐτοῖς ὁ βασιλεὺς τοὺς τε νόμους 38  
 ἀνέγνω, καὶ χρόνους ἐπέδειξεν ὅτι οὐκ ἐγχωροίη  
 ἀπογράψασθαι καὶ τὰς κλήσεις καλεῖσθαι ὅσας ἔδει, καὶ ἐγὼ  
 τοὺς ταῦτα μηχανωμένους εἰσάγων εἰς τὸ δικαστήριον εἶλον  
 ἅπαντας, καὶ ἐτιμήθη αὐτοῖς ὧν ὑμεῖς ἐπίστασθε, καὶ οὗτοι ὧν  
 ἕνεκα ἐλάμβανον χρήματα οὐδὲν αὐτοῖς οἰοί τε ἦσαν ὠφελῆσαι,  
 τότε δὴ προσιόντες αὐτῷ τ' ἐμοὶ καὶ τοῖς φίλοις ἐδέοντο  
 διαλλαγῆναι, καὶ δίκην ἔτοιμοι ἦσαν διδόναι τῶν  
 ἡμαρτημένων. καὶ ἐγὼ πεισθεὶς ὑπὸ τῶν φίλων διηλλάγην 39  
 τούτοις ἐν Διιπολείῳ ἐναντίον μαρτύρων, οἵπερ διήλλαττον  
 ἡμᾶς πρὸς τῷ νεῶι τῆς Ἀθηνᾶς· καὶ μετὰ τοῦτο συνῆσάν μοι  
 καὶ διελέγοντο ἐν τοῖς ἱεροῖς, ἐν τῇ ἀγορᾷ, ἐν τῇ ἐμῇ οἰκίᾳ, ἐν  
 τῇ σφετέρᾳ αὐτῶν καὶ ἐτέρῳθι πανταχοῦ. τὸ τελευταῖον, ὧ 40  
 Ζεῦ καὶ θεοὶ πάντες, Φιλοκράτης αὐτὸς οὕτως ἐν τῷ  
 βουλευτηρίῳ ἐναντίον τῆς βουλῆς, ἐστῶς μετ' ἐμοῦ ἐπὶ τοῦ  
 βήματος, ἀπτόμενος ἐμοῦ διελέγετο, ὄνόματι οὗτος ἐμὲ προ-  
 σαγορεύων, καὶ ἐγὼ τοῦτον, ὥστε δεινὸν δόξαι εἶναι τῇ  
 βουλῇ, ἐπειδὴ ἐπύθετο προειρημένον μοι εἵργεσθαι τῶν  
 νομίμων ὑπὸ τούτων οὓς ἑώρων μοι τῇ προτεραίᾳ συνόντας

6.38 ὅτι Dobree: τί *AN*6.39 Διιπολείῳ Scheibe: τῇ πόλει *AN*

- 41 καὶ διαλεγομένους. σκέψασθε δὲ καὶ μοι μνήσθητε, ὦ ἄνδρες· ταῦτα γὰρ οὐ μόνον μάρτυσιν ὑμῖν ἀποδείξω, ἀλλὰ καὶ ἐξ αὐτῶν τῶν ἔργων ἃ τούτοις πέπρακται ραϊδίως γνῶσεσθε ὅτι ἀληθῆ λέγω. καὶ πρῶτον ἃ τοῦ βασιλέως κατηγοροῦσι καὶ διὰ τὴν ἐμὴν σπουδὴν οὗ φασιν ἐθέλειν αὐτὸν ἀπογράφεσθαι τὴν δίκην, τοῦτο δὲ κατ' αὐτῶν τούτων ἔσται τεκμήριον ὅτι οὐκ
- 42 ἀληθῆ λέγουσι. ἔδει μὲν γὰρ τὸν βασιλέα, ἐπειδὴ ἀπεγράψατο, τρεῖς προδικασίας ποιῆσαι ἐν τρισὶ μησί, τὴν δίκην δ' εἰσάγειν τετάρτῳ μηνί, ὥσπερ νυνὶ τῆς δ' ἀρχῆς αὐτῷ λοιποὶ δύο μῆνες ἦσαν, Θαρρηλιῶν καὶ Σκιροφοριῶν. καὶ οὗτ' εἰσάγειν δήπου οἷός τ' ἂν ἦν ἐφ' ἑαυτοῦ, οὔτε παραδοῦναι φόνου δίκην ἔξεστιν, οὐδὲ τ.αρέδωκεν οὐδεὶς πώποτε βασιλεὺς ἐν τῇ γῇ ταύτῃ. ἦντινα οὖν μήτε εἰσάγειν μήτε παραδοῦναι ἐξῆν αὐτῷ, οὐδ' ἀπογράφεσθαι ἡξίου παρὰ τοὺς ὑμετέρους
- 43 νόμους. καὶ ὅτι οὐκ ἀδικεῖ αὐτούς, μέγιστον σημεῖον· Φιλοκράτης γὰρ οὐτοσὶ ἐτέρους τῶν ὑπευθύνων ἔσειε καὶ ἐσυκοφάντει, τούτου δὲ τοῦ βασιλέως, ὃν φασι δεινὰ καὶ σχέτλια εἰργάσθαι, οὐκ ἦλθε κατηγορήσων εἰς τὰς εὐθύνas. καίτοι τί ἂν ὑμῖν τούτου μεῖζον τεκμήριον ἀποδείξαιμι, ὅτι οὐκ
- 44 ἡδικεῖτο οὐθ' ὑπ' ἐμοῦ οὐθ' ὑπ' ἐκείνου; ἐπειδὴ γὰρ οὐτοσὶ ὁ βασιλεὺς εἰσηλθεν, ἐξὸν αὐτοῖς ἀπὸ τῆς πρώτης ἡμέρας ἀρξαμένοις τοῦ Ἑκατομβαιῶνος μηνὸς τριάκονθ' ἡμέρας συνεχῶς τούτων ἦι τινι ἐβούλοντο ἀπογράφεσθαι, ἀπεγράφοντο οὐδεμιᾷ· καὶ αὖθις τοῦ Μεταγειτνιῶνος μηνὸς ἀπὸ τῆς πρώτης ἡμέρας ἀρξαμένοις ἐξὸν αὐτοῖς ἀπογράφεσθαι ἦι τινι ἐβούλοντο, οὐδ' αὖ πω ἐνταῦθα ἀπεγράψαντο, ἀλλὰ παρεῖσαν καὶ τούτου τοῦ μηνὸς εἴκοσιν ἡμέρας· ὥστε αἱ σύμπασαι ἡμέραι ἐγένοντο αὐτοῖς πλέον ἢ πεντήκοντα ἐπὶ τούτου τοῦ βασιλέως, ἐν αἷς ἐξὸν αὐτοῖς
- 45 ἀπογράψασθαι οὐκ ἀπεγράψαντο. καὶ οἱ μὲν ἄλλοι ἅπαντες ὅσοις ἐπὶ τοῦ αὐτοῦ βασιλέως ὁ χρόνος μὴ ἐγχωρεῖ . . . οὗτοι δ' ἐπιστάμενοι μὲν τοὺς νόμους ἅπαντας, ὀρῶντες δ' ἐμὲ βουλευόντα καὶ εἰσιόντ' εἰς τὸ βουλευτήριον – καὶ ἐν αὐτῷ τῷ βουλευτηρίῳ Διὸς Βουλαίου καὶ Ἀθηνᾶς Βουλαίας ἱερόν ἐστι, καὶ εἰσιόντες οἱ βουλευταὶ προσεύχονται, ὧν κἀγὼ εἰς ἣν, ὁ

ταῦτα πράττων, καὶ εἰς τᾶλλα ἱερὰ πάντα εἰσιῶν μετὰ τῆς  
 βουλῆς, καὶ θύων καὶ εὐχόμενος ὑπὲρ τῆς πόλεως ταύτης, καὶ  
 πρὸς τούτοις πρυτανεύσας τὴν πρώτην πρυτανείαν ἅπασαν  
 πλὴν δυοῖν ἡμέραιν, καὶ ἱεροποιῶν καὶ θύων ὑπὲρ τῆς  
 δημοκρατίας, καὶ ἐπιψηφίζων καὶ λέγων γνώμας περὶ τῶν  
 μεγίστων καὶ πλείστου ἀξίων τῇ πόλει φανερὸς ἦν· καὶ οὗτοι 46  
 παρόντες καὶ ἐπιδημοῦντες, ἐξὸν αὐτοῖς ἀπογράφεσθαι καὶ  
 εἶργειν ἐμὲ τούτων ἀπάντων, οὐκ ἤξιουν ἀπογράφεσθαι· καὶ  
 ἱκανὰ γ' ἦν ὑπομῆσαι καὶ ἐνθυμηθῆναι, εἴπερ ἡδικοῦντο,  
 ἀμφοτέρα καὶ σφῶν αὐτῶν ἕνεκα καὶ τῆς πόλεως. διὰ τί οὖν οὐκ  
 ἀπεγράφοντο; διὰ τί συνῆσαν καὶ διελέγοντο; συνῆσάν τε γάρ  
 μοι οὐκ ἀξιοῦντες φονέα εἶναι, καὶ οὐκ ἀπεγράφοντο τούτου  
 αὐτοῦ ἕνεκα, οὐχ ἡγούμενοί με ἀποκτείνειν τὸν παῖδα οὐδ'  
 ἔνοχον εἶναι τοῦ φόνου οὐδὲ προσήκειν μοι τούτου τοῦ  
 πράγματος οὐδέν. καίτοι πῶς ἂν ἄνθρωποι σχετλιώτεροι ἢ 47  
 ἀνομώτεροι γένοιντο; οἵτινες ἅπερ αὐτοὶ σφᾶς αὐτοὺς οὐκ  
 ἔπεισαν, ταῦθ' ὑμᾶς ἀξιοῦσι πείσαι, καὶ ἃ αὐτοὶ ἔργω  
 ἀπεδίκασαν, ταῦτα ὑμᾶς κελεύουσι καταδικάσαι· καὶ οἱ μὲν  
 ἄλλοι ἄνθρωποι τοῖς ἔργοις τοὺς λόγους ἐξελέγχουσιν, οὗτοι 48  
 δὲ τοῖς λόγοις ζητοῦσι τὰ ἔργα ἄπιστα καταστήσαι. καίτοι εἰ  
 μηδὲν ἄλλο μήτε εἶπον μήτε ἀπέφηνα μήτε μάρτυρας  
 παρεσχόμην, ἀλλὰ ταῦτα ὑμῖν ἀπέδειξα, τούτους ὅπου μὲν  
 χρήματα λαμβάνοιεν ἐπ' ἐμοί, αἰτιωμένους καὶ προ-  
 αγορεύοντας, ὅπου δὲ μὴ εἶη ὁ δώσων, συνόντας καὶ  
 διαλεγομένους, ἱκανὰ ἦν καὶ αὐτὰ ταῦτα ἀκούσαντας  
 ἀποψηφίσασθαι καὶ τούτους νομίζειν ἐπιорκοτάτους καὶ  
 ἀνοσιωτάτους πάντων ἀνθρώπων. οὗτοι γὰρ ποίαν δίκην οὐ 49  
 δικάσαιντ' ἂν ἢ ποῖον δικαστήριον οὐκ ἐξαπατήσειαν ἢ τίνας  
 ὅρκους οὐκ ἂν τολμήσειαν παραβαίνειν, οἵτινες καὶ νῦν  
 τριάκοντα μνᾶς ἐπ' ἐμοί λαβόντες παρὰ τῶν ποριστῶν καὶ  
 τῶν πωλητῶν καὶ τῶν πρακτόρων καὶ τῶν ὑπογραμμάτων  
 οἱ τούτοις ὑπεγραμμάτεον, ἐξελάσαντές με ἐκ τοῦ  
 βουλευτηρίου, ὅρκους τοιούτους διωμόσαντο, ὅτι πρυτανεύων  
 πυθόμενος αὐτοὺς δεινὰ καὶ σχέτλια ἐργάζεσθαι εἰσῆγον εἰς τὴν  
 βουλήν, καὶ ἐδίδαξα ὥς χρή ζητοῦντας ἐπεξελθεῖν τῷ

- 50 πράγματι. καὶ νῦν δίκην διδόασιν ὧν ἡδίκηκασιν αὐτοί τε καὶ οἱ μεσεγγυησάμενοι, [καὶ] παρ' οἷς ἐτέθη τὰ χρήματα, καὶ τὰπραχθέντα φανερὰ γεγένηται, ὥστ' οὐδ' ἂν οὗτοι βούλωνται ἀρνεῖσθαι ῥαιδίως οἷόι τ' ἔσονται· οὕτως αὐτοῖς πέπρακται τὰ πράγματα.
- 51 ποῖον οὖν δικαστήριον οὐκ ἂν ἔλθοιεν ἐξαπατήσοντες, ἢ τίνας ὅρκους οὐκ ἂν τολμήσειαν παραβαίνειν οὗτοι οἱ ἀνοσιώτατοι, οἵτινες καὶ ὑμᾶς εἰδότες εὐσεβεστάτους τῶν Ἑλλήνων δικαστὰς καὶ δικαιοτάτους καὶ ἐφ' ὑμᾶς ἤκουσιν ἐξαπατήσοντες εἰ δύναιντο, ὅρκους τοσούτους διομοσάμενοι;

### Fr. 1. Περὶ τῆς μεταστάσεως

#### 1a

- ... αἰρεθεὶς ἀρχὴν ἄρξαι χρήματα πολλὰ διεχείρισα καὶ εὐθυναί μοι ἦσαν ἅς ἐδεδοίkein, ἢ ἄτιμος ἦν, ἢ κακόν τι ὑμᾶς εἰργασάμην, ἢ δίκην ἐπιρρέπουσαν ἐδεδοίkein; οὐ δῆι ταῖς ἔγωγε, ἐπεὶ οὐδέν μοι ἦν τούτων. ἀλλ' ὥς χρήματα ἀφείλεσθε
- 5 ἐμοῦ; ἀλλ' ὥς τῶν προγόνων τῶν ἐμῶν κακόν τι εἰργασμένων ... οἱ μὲν ἄλλοι τούτου ἔνεκ' ἄλλης τινὸς πολιτείας ἢ τῆς καθεστηκυίας ἐπιθυμοῦσιν, ἵνα ἢ ὧν ἡδίκησαν δίκην μὴ δῶσιν, ἢ ὧν ἔπαθον τιμωρῶνται καὶ αὐθις μηδὲν πάσχωσιν· ἀλλ' ἐμοὶ τοιοῦτον οὐδὲν ἦν.
- 10 ἀλλὰ μὲν δὴ λέγουσιν οἱ κατήγοροι ὥς συνέγραφόν τε δίκας ἄλλοις καὶ ὥς ἐκέρδαινον ἀπὸ τούτου· οὐκοῦν ἐν μὲν τῇ ὀλιγαρχίᾳ οὐκ ἂν ἦν μοι τοῦτο, ἰέν, διὲ τῇ δημοκρατίᾳ πάλαι ὁ κριατῶν, εἰμι ἐγὼ εἰδῶις τοῦ λέγειν. ἐν μὲν τῇ ὀλιγαρχίᾳ οὐδενὸς ἐμελλον ἄξιος ἔσεσθαι, ἐν δὲ τῇ
- 15 δημοκρατίᾳ πολλοῦ. φέρε δὴ, πῶς εἰκὸς ἐστὶν ἐμὲ ὀλιγαρχίας ἐπιθυμεῖν; πότερον ταῦτα ἐκλογίζεσθαι οὐχ οἷός τ' εἰμί, ἢ οὐ γιγνώσκειν τὰ λυσιτελοῦντ' ἐμαυτῷ ἰμόνος, Ἀθηναίων ...

1b

. . . περὶ τοίνυν ὧν Ἀπόληξις κατηγορήκεν, ὥς στασιώτης ἦν  
ἐγὼ καὶ ὁ πάππος ὁ ἐμός . . . οὐκ ἂν τοὺς μὲν τυραννοῦντας  
ἡδυνήθησαν οἱ πρόγονοι κολάσαι, τοὺς δὲ δορυφόρους  
ἡδυνάτησαν.

1c

περὶ τοῦ μὴ ἐλεεῖν ὑμᾶς ἐμὲ ἐδεήθη, δείσας μὴ ἐγὼ δάκρυσι καὶ  
ίκετείαις πειρῶμαι ὑμᾶς ἀναπείθειν.



## COMMENTARY

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### 1. Against the stepmother

*Background.* The speaker's father and his friend Philoneus were dining together when (we are told) Philoneus' *pallakē* ("concubine" – see 1.14n.), whom he was about to discard, after serving dinner to the two men added a drug to their wine, killing Philoneus immediately and causing the father's death several days later. When questioned the woman said the father's wife, who is the boy's stepmother, had told her that she too needed to regain her man's affection and that the drug was a love potion. Philoneus' relatives had the concubine tortured and executed for her part in the killing. Before he died, the speaker's father instructed him to prosecute his stepmother for the crime, claiming this was not the first time she had tried to kill him with a drink allegedly intended to gain his affection. Although the deaths occurred some time ago, when the speaker was still a boy (1.30), he had to wait until he reached the required legal age (eighteen) to prosecute (1.1n.). The woman is defended by her sons, the speaker's half-brothers; they are apparently older than he, and he is therefore the son of a mistress or concubine. The case is tried before the Areopagus (1.22n.), the court for intentional homicide, arson and poisoning (*AP* 57.3). The woman is throughout spoken of as the killer, and the charge must be homicide (φόνος), not "planning" (βούλευσις), as some have argued (cf. 1.3n.).

*The case.* It is generally agreed that the speaker's case is quite weak, for he provides no evidence on what seems to us the key point concerning his stepmother's intentions. That intention could be the crucial factor in such a case is assumed to be proved by a report in *Magna Moralia* (1188b29–38), a work attributed to Aristotle but probably compiled after his death. The author, who is discussing intention and deliberation, cites a case (which may even be this case) in which a woman was acquitted by the Areopagus of poisoning her husband because she thought the drug was a love potion and did not intend to kill him. We cannot be certain, however, that this later story necessarily reflects views or attitudes current in the late fifth century, and the speaker in this case makes little effort to prove criminal intent, citing only his father's

statement accusing the stepmother of an earlier attempt on her husband's life and the defense's refusal of his challenge to interrogate the slaves about this (see Introd. 7 on *basanos*). Indeed, this rejected challenge is the only significant argument in the speech; the speaker relies primarily on a vivid narration of the events surrounding the deaths and powerful portrayals of the evil stepmother, her unwitting helper, and the two innocent victims piously pouring libations and sacrificing to Zeus just before drinking their last, fatal draught. Throughout he emphasizes his own loyalty to his father and, by contrast, his half-brothers' disregard of their father and their corresponding loyalty to their mother. In this regard (as in others) the case resembles the trial of Orestes in Aeschylus' *Eumenides*, and in that case, as in this one, modern scholars tend to make more of the question of intent than do the ancient litigants.

This is A.'s only surviving speech for the prosecution, and the narrative is his best, providing sufficient background information but focusing primarily on the events immediately surrounding the deaths. Each of the women has a distinct role and character, but the speaker keeps the focus on the accused stepmother and makes clear that the crime was primarily her doing. He makes particularly effective use of tragic images and metaphors, both for dramatic effect and to link the accused to the mythological stereotype of the husband-killer, Clytemnestra.

*The opponent's case.* There is no indication that the two sides disagreed about the facts, only about the woman's intentions. We may presume the defense would argue the drug was intended to be a love potion, and this would be a strong argument. It may have worked against the stepmother, however, that this was her second attempt. By rejecting the plaintiff's challenge, the defense would seem to be acknowledging the validity of their claim, but such challenges normally favored the challenger (he could phrase the question as narrowly as he wished – in this case perhaps “did my father catch this woman putting a drug in his drink?”) and were normally rejected (Introd. 7); thus this would probably not count too heavily against the defense.

It was also common for a speaker in court to ignore his opponent's challenge rather than try to explain why he had rejected it, and the defense here probably concentrated on its own strong points. In addition to the argument about intent, their main strategy may have been to

present a contrasting portrait of the characters involved. One can imagine vivid pleas on behalf of their poor mother, who was only trying to regain her husband's affection; they could portray her as more of a victim than the dead man and, since she was apparently not his legitimate wife, they may have portrayed him as mistreating her. She never intended to harm anyone, they could argue, and the need for revenge had already been satisfied by the execution of the maid (who may have given the wrong dosage)

*Assessment.* Although it seems unlikely to a modern reader that the prosecution could win a case with so little evidence, the vivid narrative is effective and the case might seem stronger to the Athenian jurors. Much would depend on the effectiveness of the defense's case. It is possible that the jurors (who were all men) may have shared the latent fear of women evident in the plaintiff's speech and approved of the plaintiff's steadfast loyalty to his father. If so, this may have been one of the speeches that contributed to A.'s high reputation for success (Introd. 2).

On the other hand, one of the speaker's motives for prosecuting is apparently to fulfill his duty to his dying father, and so he may have brought the case even with little likelihood of a conviction. We may also wonder whether there may be some other issue sparking conflict between the speaker and his half-brothers, perhaps a property dispute, for which a victory (or even a good showing) in this case might strengthen his hand. The speaker's opponents apparently inherited their father's estate (1.9n. on τούτων).

*Outline.* After a prologue appealing to the jurors (1-4) the plaintiff assails the defense for rejecting his challenge to interrogate his slaves (5-13). There follows the narrative (14-20), further arguments (21-30) and the epilogue (31).

#### 1-4 *The prologue*

*As in many prologues the speaker appeals for the jurors' sympathy (captatio benevolentiae, Introd. 6), stressing especially his youth and inexperience in court.*

1 νέος . . . καὶ ἄπειρος δίκων: a *topos* (or commonplace) in Attic oratory, often elaborated (e.g. Dem. 58.3 νέος ὦν καὶ ἄπειρος, ὥστ' ἀγαπητὸν εἶναί μοι, ἐάν . . . δυνήθω δηλῶσαι τὰ πεπραγμένα τούτῳ). The

speaker implies that he has just reached the age of eighteen, when boys were registered in their demes, or twenty, if the rule prohibiting appearance in court for two years after that was already in effect at this time (*AP* 42). **μὲν:** inceptive μὲν begins each court speech and the first speech in each Tetralogy, as well as four of the nine other speeches (3.3, 3.4, 4.2, 4.4), and also Andocides' three genuine speeches (but not *Andoc.* 4); it is less common in later oratory (*GP* 383). Only rarely (*Ant.* 3.3.1) is there no answering δέ. **δεινῶς δὲ καὶ ἀπώρως ἔχει μοι** "I am terribly at a loss"; hendiadys (coordination of two words or ideas when one is really subordinate to the other). **ἀπορία** is a common rhetorical plea (2.4.1, etc.). **ὦ ἄνδρες:** in Lysias the Areopagus is always called ὦ βουλή, but the court must be the Areopagus (1.22n.) and A. did not necessarily use the same form of address, as some have maintained (most recently Wallace 1989: 101). ὦ ἄνδρες is also used of the Areopagus in 2.2.13, and it is the regular form of address in 5 (to the Heliaia) and 6 (to the Palladion). **τοῦτο μὲν . . . τοῦτο δέ:** this pair of adverbs, common in Herodotus, is absent from 6 and the Tetralogies, but is common in 5 (also 1.11); this is one of the data Dover (1950: esp. 50-1) uses for establishing a relative chronology 6, 1, 5 (see *Introd.* 3). **ἐπισκήψαντος** "enjoin," "instruct," his father's words would amount to a moral obligation, not a legal requirement (cf. 1.29-30). **ἐπεξελεῖν:** a standard term for "prosecute" (but cf. 1.6n.); the accused is normally in the dative, as here. **καταστήναι:** the intransitive (2nd aorist and 2nd perfect and pluperfect) and middle-passive forms of καθίστημι mean "set oneself," "stand," "come to be," "be established (as)"; with εἰς the meaning is "come into," "enter upon." The 2nd aorist (here) and perfect are often virtually equivalent to εἰμί. **ἀδελφοῖς ὁμοπατρίοις:** i.e. only half-brothers. One brother presumably presented the entire defense, but the orators use the singular (1.5 etc.) or plural almost indiscriminately in referring to the opposing side.

**2 αὐτοὶ οὗτοι . . . τούτους αὐτούς:** the pairing of these pronouns is common in A.'s court speeches, but rare in the Tetralogies (2.1.11, 2.2.13). **ἠνάγκασαν . . . καταστήναι:** lit. "have forced (this trial) to take place." For the construction cf. *Lys.* 2.29 (of Xerxes digging a canal): πλοῦν δὲ διὰ τῆς γῆς ἠνάγκασε γενέσθαι. **ἀγῶνα:** although they can designate any sort of contest (athletic, poetic, etc.), in A. ἀγών (eighteen times) and ἀγωνίζομαι (four times plus once compounded with συν-) always mean "legal contest," "trial" and "to engage in a legal

contest or trial"; cf. further 5.74n. **εἰκός**: the usual meaning is "probable," "likely," but it can also mean "proper," "reasonable," especially in statements about general norms of behavior; occasionally (as here) both senses are felt. Cf. *Introd.* 5. **τιμωροὺς γενέσθαι**: to avenge a close family member's death was a traditional obligation, though there was no legal remedy against those who failed to do so. **τάναντία**: it is common to accuse one's opponent of doing the opposite of what he ought to do (1.24, 2.4.2) or the opposite of what others do (5.11, 5.34). **καθεστᾶσιν**: 1.1n. **φονεῖς**: the nom. pl. occurs four times in the MSS of A. (1.2, 1.4, 4.2.7 *bis*), always in this form; most editors "correct" all four to the "regular" Attic form φονῆς, although no example of φονῆς survives (except perhaps in a scholion to Eur. *Or.* 1547). **ἡ γρασὴ**: the case is a δίκη φόνου, but the accusation entered with the *basileus* was evidently written (cf. *Introd.* 4).

**3** **δέομαι δ' ὑμῶν . . . τιμωρῆσαι . . . τοῖς νόμοις . . . τῷ τεθνηκότι**: the jurors too are requested to become avengers (cf. 1.2), first "on behalf of the laws," which are their official concern, and then for the victim, as if they too were relatives. For the age of the homicide laws see *Introd.* 4. **ἐξ ἐπιβουλῆς καὶ προβουλῆς** "planned and premeditated." The first term is common in this sense, the second occurs only here and in 1.5 in classical Greek. **φονέα**: the stepmother is throughout spoken of as the killer (not the "planner") even though the maid actually administered the drug (cf. 1.20n., 1.26n.). **πολλάκις**: only one other occasion is alleged by the speaker. **ἐπ' αὐτοφώρῳ** "(caught) in the act," a technical term originally used of a thief (φώρ) caught in one's house or with the stolen goods in hand. The separation of this phrase from ληφθεῖσαν is an example of mild *hyperbaton*, which is common in A. (*Introd.* 8 iv 1). **κατὰ τὸ αὐτό** "in the same way (as)." **περὶ τῆς καταψηφίσεως δικάζετε** "give judgment about the conviction," i.e. convict people. The periphrasis is difficult; even Wilamowitz complains (1887: 200 n.1), "I can neither understand nor improve the text." For A.'s use of nouns in -σις see *Introd.* 8 ii 2; this one occurs only here in classical Greek.

**4** **ἀναγκαῖοι**: from "necessary" the word comes to mean "related by blood" (LSJ s.v. II.5); a similar conceit in Andoc. 1.149 ὑμεῖς τοίνυν καὶ ἀντὶ πατρὸς ἐμοὶ καὶ ἀντὶ ἀδελφῶν καὶ ἀντὶ παίδων γένεσθε. **οὗς γὰρ κτλ.**: the repetition (cf. 1.2) may be meant to increase sympathy but may also result from lack of better arguments. **οὔτοι**: in forensic speeches οὗτος regularly designates the opposing side. **φονεῖς**: 1.2n.

ἔλθῃ: the deliberative subjunctive (S 1805c) is common in a rhetorical question. **καταφυγήν:** Andoc. 1.149 (cited above) continues εἰς ὑμᾶς καταφεύγω. A. is fond of periphrases in which the action is expressed not by a verb but by a neutral auxiliary verb and a verbal noun, sometimes created for the occasion (Introd. 8 iii 5). **ποιήσεται:** sc. τις; the fut. has very nearly the same sense as the preceding subjunctive; for the switch cf. e.g. Eur. *Ion* 758 εἴπωμεν ἢ σιγῶμεν; ἢ τί δράσομεν;

### 5-13 Preliminary argument

*A preliminary argument (προκατασκευή) before the narrative is also found in 5.8-19, but 6.7-9, to which some would attach the same label, is rather different.*

**5 ἦντινά ποτε γνώμην ἔχων** "what he has in mind" (when he opposes). Greek often expresses the main idea of a relative clause in a participial phrase rather than the main verb. **καθέστηκε:** 1.1n. **τοῦτο εὐσέβειαν εἶναι** "that piety consists simply in this." εὐσέβειαν and other words conveying religious ideas are very hard to translate today; English "piety" carries narrower implications now that religion has a more limited role in most people's lives. **τοῦ μὲν . . . τῆς δέ:** balanced antithesis with *pariosis* but with variation in the order of adverb and prepositional phrase (Introd. 8 v). **ἐκ προβουλῆς ἀκουσίως . . . ἐκουσίως ἐκ προνοίας:** for προβουλῆς see 1.3n. The basic opposition, common in oratory and elsewhere, is between ἀκουσίως and ἐκουσίως. There is a slight discrepancy in the first pair: his death was "planned" (by another) but not intended (by himself); the latter pair are largely redundant, though ἐκ προνοίας is slightly stronger than ἐκουσίως and here probably implies premeditation as well as intentionality.

**6 καὶ πῶς:** the MS reading καὶ οὐ cannot stand, since οὐκ ἐρεῖ cannot be stretched to mean something like "he will not be justified in saying." Parallels for οὐκ ἐρεῖ from the orators (Is. 6.54, Dem. 24.120, 36.34) all refer to an extreme statement the opponent will surely not make, but the speaker here can hardly assert that the defendant will not say something he has in fact said in his oath using the very words εὐ οἶδα, (1.8, 1.28). καὶ πῶς, suggested by Tom Cole, fits well with the γάρ that follows and seems preferable to Th's καίτοι or more radical changes such as καὶ οὐ δίκαιον γ' ἐρεῖ. **εὐ οἶδεν:** the speaker repeatedly returns to these words, presumably a direct quotation from the defendant's oath (1.7,

1.8, etc.). **ἐξουσία ἦν** = ἐξῆν, which may be shortened to ἦν, esp. after a negative (as in the next line). For the periphrasis see *Introd.* 8 iii 5. **σαφῶς εἰδέναι**: a common collocation (2.1.3, 2.1.8, etc.), clear knowledge being equivalent to certain knowledge. Cf. 6.18 εἰκάζοντας μᾶλλον ἢ σάφα εἰδότας; Eur. *Helen* 21 σαφῆς λόγος ("a true story"); and Dawe on Soph. *OT* 534 5. **βασάνου** "interrogation under torture." The word originally meant a touchstone to test gold, and then any test to determine genuineness (e.g. 5.71, Andoc. 1.30); see further *Introd.* 7, Gagarin (1996). **ἐν οἷς δ' οὐκ ἦν πυθέσθαι**: the speaker does not wish to remind the jurors of his opponent's case, and so he is understandably vague about the alternatives to his proposed *basanos*; the defense may have challenged the speaker to a different *basanos*, which he refused. **ὅπως τὸ πραχθὲν ᾗ ἀληθὲς ἐπεξελθεῖν**: lit. "in order that the facts might be true upon full examination." A difficult expression; the infinitive limits the adjective (*MT* 763). ἐπεξελθεῖν here (cf. 1.1n.) implies a full investigation and presentation of the facts (*Thuc.* 3.67.1; cf. 1.1n.). Several changes in the text have been proposed, but none makes the sense any easier.

**7 μὴ . . . ὁμολογούντων**: slaves who were interrogated could only answer "yes" or "no"; thus "disagree" = "answer no" (presumably to the question, "was the stepmother caught giving a drug on an earlier occasion?") **ἀνδραπόδων** "slaves," always in the plural. The word is modeled on τετράποδα ("four-footed"), referring to flocks captured as booty in war; originally it designates slaves captured in war, but it is often used (as here) of slaves in general. The general term for "slave" is δοῦλος, which is always used when there is a specific contrast with ἐλεύθερος, but the orators commonly use οἰκέτης or θεράπων/θεράπαινα when referring to household servants. **ἀντέσπευδε** "would eagerly contend against"; a very rare verb, only here in classical Greek. **ἀπήλλακτο** "would be free (of the charge)"; the pluperfect implies a complete release. **ὅπου** continues the local sense of ἐν οἷς (1.6); translate "whereas" or "since" (*LSJ* s.v. II.2). For μὴ see *KG* II 186. **ἐγχωρεῖ**: impers. "it is possible" (see 5.19, 5.90, 6.38, 6.45). **πῶς οὖν κτλ.**: πῶς οὖν . . . εἰδέναι is omitted in one MS (*N*) and the whole sentence is deleted as repetitious by some editors (G, M), who explain it as a double recension (i.e. two MS traditions being brought together so that both are incorporated into a single text). Th moves the sentence to the beginning of 1.6; but this speaker is nothing if not repetitious (e.g. 2 ~ 4,

11 ~ 12, 21 2 ~ 23), the statement of reasonableness (εἰκός) makes an appropriate summary here, and the omission in *N* can be explained by the preceding εἰδέναι causing the scribe to skip straight to the next εἰδέναι (Ba). ὦ δικάζοντες: an unparalleled form of address to the jurors.

8 ἀπολογήσεσθαι . . . μοι: slight *hyperbaton* (1.3n.). οὐχ οἶόν τ' ἦν: a simple indicative, "it was not possible" (for her to be saved). ἡγεῖτο . . . ωἰήθησαν: for the switch to the plural see 1.1n. on ἀδελφοῖς ὁμοπατρίοις. τὰ γενόμενα . . . ἀφανισθῆναι "the facts would disappear." τὰ γενόμενα are opposed to τὰ εἰκότα in 5.25. The work of the orator is to make the facts, and thus the truth, apparent to the jurors. Gorgias (*Helen* 13) compares astronomers who "make incredible and invisible matters clear." εὖορκα "truly," adverbial. ἀντομωμοκῶς ἔσται: a rare instance of the future perfect. ἀντόμνυμι can be used of any oath sworn by a litigant (see Wyse 1904: 294), though strictly speaking δίομνυμι should be used in homicide cases (5.11n., cf. 1.28, etc.). τῇ δικαιοτάτῃ βασάνῳ "the fairest possible interrogation," probably referring to the details mentioned in 1.10. χρήσασθαι: χρᾶσμαι, "want," "use," "experience," "treat (a person)" has such a wide range of uses that (like English "get") it often has little meaning in itself. χρώμενος can mean simply "with."

9 τοῦτο μὲν: here without a corresponding τοῦτο δέ (cf. 1.1n.). ἠθέλησα μὲν: the MSS have ἠβελήσαμεν, but in A.'s court speeches the speaker never uses the plural of himself unless he is also referring to others. There is no corresponding δέ because the speaker never explicitly returns to the wishes or the behavior of his opponents. τούτων: the defendants apparently inherited the victim's estate, including his slaves. ἅ: the slaves. φαρμάκοις: many substances were thought to be aphrodisiacs in antiquity; we cannot tell which was used here (see Heitsch 1984: 123-5). ἐπ' αὐτοφώρῳ: 1.3n. ταύτην τε: single τε (not followed by καί or another τε) is more common in the Tetralogies than the court speeches, but it is not as rare in these as Dover (1950: 57, iiδ) maintains (cf. 1.10, 1.26). ἀπαρνον: for the periphrastic construction (adjective + εἰμί) here and in 1.10 see Introd. 8 iii 5 (but cf. ἀπαρνῶνται in 2.3.4); the verb is more commonly compounded with ἐξ-. πλὴν οὐκ ἐπὶ θανάτῳ: the speaker presents this point as if it were a minor consideration, but it is probably one of the defense's main arguments (see introduction to 1, above). ἐπὶ



**φίλτροις:** most aphrodisiacs (like many drugs) are fatal if the dosage is too high. In antiquity it was even more difficult than today to calculate the correct dosage; possibly an earlier unsuccessful attempt led the woman to increase the dosage the second time.

**10** The details of the proposed examination are meant to illustrate the fairness of the proposed *basanos*; on some points they appear more favorable to the defense than normal. **γράφας κτλ.:** the challenger determines the wording of the question, which is often of crucial importance, and the interrogator must stick to the precise wording, as written (τοῖς ἐν τῷ γραμματείῳ χρῆσθαι, below); this may give the challenger a substantial advantage. **βασανιστάς τε:** the challenger often specifies who will conduct the interrogation; it is usually not the owner but the other party to the challenge (rarely a third party). By allowing the defendants to interrogate their own slaves the speaker indicates his confidence in the results (cf. 1.11). **τε** is the reading of *N* (cf. 1.9n.); *A* has **δέ**, accepted by *Th*, *M* and *Ba* as responding to ἡθέλησα μὲν (1.9), but there is no contrast between the designation of questioners and the speaker's wish for a *basanos*. We should thus read **τε**, the *lectio difficilior*. **ἀναγκάζόμενοι:** referring to ἀνδράποδα; the masculine is often used when this noun is not expressed. **τεκμήριον** "evidence." In a fragment (*Th*. 72, *Mor* 163) *A*. distinguishes between σημεῖα, which confirm past events and τεκμήρια, which confirm future events; Aristotle (*Rhet.* 1.2.16 18, 1357b1 21) makes τεκμήρια the subset of σημεῖα that are "necessary" (i.e. that inspire certainty). But neither of these distinctions is followed in practice by any author. In general for *A*. σημεῖα are clear and direct evidence for a conclusion, as opposed to τεκμήρια, which are indirect and involve more deduction (Goebel 1983: 18–48). **γενέσθαι:** the MS reading **ἔσται** is explainable by a scribe's not noticing that the infinitive depends on δίκαιον (sc. **ἔστί**); cf. 6.27. **εἰ δέ:** i.e. "if (at first)" they deny it, namely the truth (or the speaker's version of events which he presumes is the truth). One difficulty with the procedure of *basanos* is that a slave was normally questioned "until he told the truth," so that the two parties might end up disagreeing whether further interrogation was needed (see Gagarin 1996). **<ἡ βάσανος> ἀναγκάζοι:** ἡ βάσανος is necessary for the sense and as a referent for the following αὕτη; the construction of the optative is difficult and an **ἄν** may have fallen out as well. Or we may have an example of the potential optative without **ἄν** (see *Intro.* 8 iii 2). **τὰ**

**γεγονότα**: best taken adverbially: make an accusation “in accordance with the facts” (cf. *τάληθῃ* below). **αὕτη γὰρ κτλ.**: the orators always praise the effectiveness of *basanos* in general (Gagarin 1996), though they sometimes object to a specific instance (e.g. 5.31n.).

**11** Solmsen (1931: 6) calls this argument a “hypothetical role-reversal”; it is also found at 5.38, 5.74, 5.84, 6.27 and 6.28; Due (1980: 27 n.8) gives examples from later orators. **ἐπειδὴ τάχιστα** “as soon as” (S 2542a).

**τεκμήρια**: 1.10n. **ἐνοχοί** “liable for, guilty of,” a common legal term always with the dative; here plural, as if the sons were on trial with their mother. **θέλων**: the regular form in tragedy

(normally *ἐθέλω* in Attic prose). A. uses both interchangeably; sometimes (e.g. 1.12, *θελόντων*) the MSS are split. The wording (*ἐγὼ εἰμι ὁ θέλων*) is emphatic: “I am the one who . . .” **εἰκός**: 1.2n.

**12** **εἰ γὰρ . . . δοῦναι** restates the argument of 1.11 in summary form; the sentence is sometimes deleted as a double recension (G, cf. 1.7n.) or a marginal paraphrase wrongly inserted in the text (Mor). But this is one of the speaker’s few arguments, and he needs to make the most of it. As Due notes (1980: 27 n.10), the conclusion here (*γενέσθω*) is somewhat stronger than in 1.11 (*εἰκός*). **διδόν κτλ.** adds another variation of the same argument.

**ζητοῦσιν αἰτεῖσθαι**: the required sense, “they seek to persuade you,” is hard to get from the text; B suggests *ζητοῦσι παραιτεῖσθαι*, perhaps correctly. **σφίσιν αὐτοῖς**: with *δικασταί* (*hyperbaton*): “jurors in their own case.” **βασανίσαι** “for interrogation,” infinitive of purpose (S 2008).

**13** **οὐκ ἄδηλον** “quite clear” (litotes). In summarizing the argument concerning *basanos* A. seeks a heightened stylistic effect throughout this section. **σαφήνειαν** occurs only here in A. (cf. 1.6n.) and once earlier

(Aesch. *Septem* 67); here it is a variation on the more common expression, *ἡ ἀλήθεια τῶν πραχθέντων* (2.4.1n.). **πυθέσθαι**: with *ἔφευγον*,

“were trying to avoid learning” (S 1993); *μὴ πυθέσθαι* can be used in this construction with the same meaning. **οἰκεῖον σφίσι** “belonging to themselves,” i.e. “their own”; cf. 4.4.5 *οἰκεῖον . . . τὸ ἀμάρτημα τῷ ἄρξαντι*. A. usually (thirteen times) reinforces *σφῶν/σφίσι* with *αὐτῶν/αὐτοῖς* (e.g. 1.12), but not always, as here and at 6.23 (where *αὐτῶν* is usually added) and 6.35.

**σιωπώμενον**: passive: the crime is “kept silent.” **ἀλλ’ οὐχ ὑμεῖς γε**: sc. *βούλεσθε*. The ellipsis gives a sudden colloquial tone (similarly, *ταῦτα μὲν οὖν μέχρι τούτου*: “enough about that”) before the more elevated metaphor that follows. **τῶν**

γενομένων: 1.8n. δίκη δὲ κυβερνήσειεν “may justice be my helmsman,” a striking metaphor (Introd. 8 ii 5).

14 20 *The narrative*

*Although not generally given high marks for narrative (Introd. 6) A. here produces a vivid account which has been likened to a messenger speech in tragedy (G). His task is to draw the jurors into his story so that they overlook the almost total absence of supporting evidence.*

14 ὑπερῶιον “upstairs room,” often for women and children but sometimes used by the men (as in Lys. 1.23). Φιλόνεως: for the Attic declension and accent see S 237 9. ἐν ᾧσται “in the city,” i.e. Athens as opposed to Piraeus (where Philoneus lives, 1.16) or the country. διατρίβοι “spend time.” καλός τε καὶ ἀγαθός “a gentleman”; both men appear to be fairly prosperous as are most (but not all) litigants in the preserved cases, since otherwise they could not afford the logographer’s fee. παλλακή: the status of this “concubine” is debated, but she is probably a slave, since Philoneus has the power (apparently) to set her up as a prostitute, and she is tortured and executed without a trial (1.20); cf. Heitsch (1984) 22 3. καταστήσαι: the aorist infinitive is rare with μέλλω (cf. Ar. *Ach.* 1159). πυθομένη: usually deleted (G, M, Ba) as a gloss on αἰσθομένη (1.15), but each word has its point; the first designates a general perception of events, the second an understanding of the injustice involved: “observing (the situation) she became friends with her; and realizing that . . .”

15 ἀδικεῖσθαι . . . ἀδικοῖτο: the verb is intentionally vague: “to be wronged.” The speaker’s goal is to show that each woman was losing her man’s affection, but neither would wish to murder him. The wrong done to the *pallakē* is evident: she is about to be made a common prostitute and she hopes to avoid this by regaining Philoneus’ affection. The stepmother’s case is more complex: the speaker wants to make it plausible that she desired revenge, but if he gives details about the wrong she suffered, he will make it easier for the defense to portray her as the victim of a cruel husband. So we are not told what wrong was done her, though we may guess that one factor was probably her husband’s mistress or concubine (the speaker’s mother, see introduction to 1, above). This woman is never mentioned and each time reference is made to a *pallakē* (1.14, 17, 19) she is specifically identified as Philoneus’, suggesting that the speaker is concerned that the jurors might think of the other

*pallakē*, his mother. **ἔφη . . . φάσκουσα**: the conversation is imaginary but dramatically effective; it may be based on the *pallakē*'s confession (1.20). **ικανή** "able"; referring to the stepmother, as the nominative makes clear. **αὐτῆς**: a kind of possessive genitive, verging on duty ("ours not to wonder why"): "the discovery was hers," i.e. her job was to discover the means; similarly ἐκείνης, of the *pallakē*. **εὕρημα . . . ὑπηρέτημα** "the contrivance . . . the execution" (of the plan). The antithesis between mother and *pallakē* is underscored by certain stylistic effects, such as *homoioioteuton* (similar word ending), here combined with *parisisis* (1.5n.).

**16 ἐθελήσει**: the more vivid indicative is preferable to the optative given in *N*; cf. 1.15 ἐθέλει. **οἱ**: the old form of the reflexive pronoun is common in poetry but rare in Attic prose (also in 5.93). **καὶ ἡ** "and she," i.e. the maid (LSJ s.v. ὅς A.II.1). Ba notes how skillfully in 1.14–16 A. develops his narrative of the two women, always keeping clear which is which; this is easier in Greek with its variety of pronouns to distinguish the subject from others in a sentence. The stepmother is the subject of all the verbs of speaking and main verbs in indirect discourse (ἔποιήσατο, μεταπέμπεται, ἔλεξεν, αὐτὴ ἀδικοῖτο, ἔφη, ἱκανή . . . ποιῆσαι, ἠρώτα) until ὑπέσχετο, while the *pallakē* is either an object of verbs or the subject of subordinate verbs (ταύτην, ἐμελλεν, ἦλθεν, αὐτῇ, ἐθέλει, ἐκείνῃ, ἐκείνης, αὐτὴν, ἐθελήσει). This reinforces the impression that the stepmother is the primary agent, the *pallakē* her subordinate. **ὥς οἶμαι**: while perhaps suggesting sympathy for the poor *pallakē*, the speaker also subtly implies that all the other details in his account except τάχιστα are certain. **Πειραιεῖ**: Piraeus, the port of Athens where, like many merchants, Philoneus lived. **ιερά** "sacrificial rites" (LSJ s.v. ἱερός III.1) is the subject of ἔτυχε (ὄντα); the dative suggests a personal obligation on Philoneus' part. The narrative is meant to convey the impression that the two men's conduct was proper (1.17 οἶον εἰκός) and honorable throughout. **Διὶ Κτησίῳ**: the rites of Zeus Ctesius, protector of the house and its possessions, were a special concern of rich Athenians; sacrifices to him were made in private homes. For a description of the rites see Is. 8.16. **εἰς Νάξον πλεῖν**: probably on business; public service would have been mentioned. **τῆς αὐτῆς ὁδοῦ**: the genitive is both temporal and spatial (cf. S 1444–9): "it seemed an excellent idea to see him off and entertain him on the same journey."

**17 οἶον εἰκός** "as was proper" (also in 1.18; cf. 1.2n.).

**ἔθουν**: ἔθουν

MSS, but from what follows (αὐτῷ; ὁ μὲν θύων) it is clear that Philoneus attended to the sacrifice alone (with the help of the *pallakē*). **ἐβουλευέτο** “she began planning.” **βουλεύω** is the standard verb for “planning” a crime; here (and in the next sentence) it strengthens the impression that the murder is premeditated, even though the step-mother is not present (Athenian men normally traveled and entertained male friends without their wives). **ἀνθρωπος** is demeaning or patronizing in reference to an individual (male or female); it is often used of slaves. **ὅπως ἂν . . . δοίη**: for this potential optative (S 2216)

cf. Xen. *Hell.* 7.1.33 **βουλευόμενοι . . . ὅπως ἂν τὴν ἡγεμονίαν λάβοιεν**. **Κλυταιμῆστρας**: this is the ancient spelling (see Fraenkel on *Ag.* 84), though both MSS and all editors add -v-. The name adds to the tragic tone of the narrative, in which several passages seem intended to recall the *Oresteia*. For mythological names in oratory cf. Andoc. 1.129 **τίς ἂν εἴη οὗτος; Οἰδίπους, ἢ Αἰγισθος; ἢ τί χρή αὐτὸν ὀνομάσαι; τῆς τούτου μητρός**: most editors delete these words as an intrusive gloss (a marginal note in a MS that erroneously was copied into the text); but this speaker tends to spell out such details (e.g. **μητέρα δὲ τούτων**, 1.9). **διακονοῦσαν**: despite αὐτῇ, the accusative (in agreement with the unexpressed subject of **δοῦναι**) is common in such constructions (S 1062).

**18 μακρότερος** “too long.” The common figure of *paraleipsis* (omission for rhetorical effect) implies that the speaker knows many other details of the crime, whereas in fact most of the details he gives are probably imagined. **τε . . . τε**: only here in this speech. The construction is more common in poetry than prose and becomes even rarer in prose after 400; it is much more common in the Tetralogies (Dover 1950: 57, who misses this example). **ἐν βραχυτάτοις**: sc. **λόγοις**. In oratory **διὰ βραχυτάτων** is more common, but see Dem. 40.5. **δόσις**: the abstract noun is fairly common in classical prose, but only here do we find **δόσις γίγνεται** as a periphrasis for **δίδοται** (Introd. 8 iii 5). **σπονδὰς . . . λιβανωτόν**: during a special celebration libations might be poured on an altar, to which frankincense was sometimes added (see e.g. Athenaeus 635b–c, quoting the fifth-century comic poet Plato).

**19 ἐγχεύουσα . . . ἐνέχει**: use of the same verb for pouring the libation and the poison emphasizes the impiety of the crime. Tension is further heightened by the pause for a dramatic reminder that the crime would dash the men’s pious wishes (**ἀ οὐκ ἔμελλε τελεῖσθαι**), and by the rhetorical punctuation mark (as it were), **ὦ ἄνδρες**. **δεξιόν** “clever”;

the patronizing tone sustains the speaker's effort to put all the blame on his stepmother. **ὤς**: the MSS read ὤσας; some editors change this to ὤσας ὤς, but a qualification would be out of place when the speaker has not qualified οἰομένη just before. The *pallakē* may have admitted giving Philoneus a larger dose, or this may just be an inference from his quick death. **φιλησομένη**: many verbs use the future middle for the future passive (S 807–9, 1738); the latter becomes more common in post-classical Greek.

**ἐξαπατωμένη** “thoroughly deceived,” emphasizing once more the *pallakē*'s innocent state of mind and, by contrast, the stepmother's deviousness.

**20** The dramatic climax comes quickly, the end being signaled by the more vivid historic present beginning with ἐκπίνουσιν (cf. de Jong 1991: 38–45 on the effect of the historic present in Euripidean messenger-speeches). **τὸν ἐαυτῶν φονέα**: i.e. the poisoned cup. φονεύς is similarly used of Ajax's sword in Soph. *Ajax* 1026.

**ὕστατην πόσιν**: true only of Philoneus, of course, but dramatically effective, especially if the speaker pauses after ἐκπίνουσιν. φονέα would then function as the object of ἐκπίνουσιν (as well as of μεταχειριζόμενοι), with this phrase added in apposition (so Wilamowitz 1887: 204 n.1). **εὐθέως παραχρῆμα**: *pleonasm* (redundant expression) for emphasis (S 3042a, Intro. 8 vi 1).

**εἰκοσταῖος**: the interval of twenty days could allow the defense to argue (as in Ant. 4) that other factors, such as the doctor's negligence, caused the death.

**ἐπίχειρα** “wages,” often (as here) in the sense of “just deserts.” **ἀξία**: i.e. she deserved the punishment she received, even though she was not responsible (αἰτία) for the crime.

The distinction is not further examined, the main point being, of course, to portray the stepmother as entirely responsible. As a slave, the *pallakē* would automatically be punished for involvement in her master's death, regardless of her culpability; there would be no trial, since masters had legal authority over their slaves. Philoneus' relatives apparently did not formally accuse the stepmother of the crime (or we would surely hear of it). **δημοκοίνω** “executioner.” **τροχισθεῖσα** “put on the wheel,” i.e. tortured, to obtain a confession or as punishment before death (or both); for references to this kind of torture see Thür (1977) 183 n.96.

**ἤδη** “forthwith,” a common meaning in poetry but rare in prose; it should be taken with ἔξει (*hyperbaton*). **καὶ χειρουργήσασα** “also carried out.” Since, strictly speaking, the concubine carried out the crime, most modern editors (Th, G, M, Mor, but

not Ba) follow B in moving these words to follow διακονήσασα; but since the speaker's strategy is to shift all the responsibility to the stepmother, the exaggeration is tolerable (see Heitsch 1984: 31 2). **ΞΕΙ:** sc. τὰ ἐπίχειρα.

### 21 31 Arguments and epilogue

A narrative is often followed by a section of arguments based on it, sometimes designated "proofs" (πίστεις). Here most of the section is essentially an extended epilogue with general arguments, considerable repetition, as in the antithesis between the speaker's request to the jurors and his brother's, which is developed with much parallelism in 21 4 (Introd. 8 v 1 2), and the rhetorical questions in 25, 26, and 28.

**21 μέν γε:** "at the beginning of a sentence, as a quasi-connective, introducing a reason, explanation, or instance" (GP 160). **τιμωροῦς γενέσθαι:** cf. 1.2n., 1.3n. **οὗτος . . . αἰτήσεται:** much of the alleged reconstruction of the opponent's speech may be persuasive speculation, but litigants did have various means of learning each other's arguments before trial, primarily at the preliminary hearings; see Dorjahn (1935). **καὶ ἐλέου καὶ βοηθείας καὶ τιμωρίας:** *polysyndeton*, or the repetition of conjunctions in a series. The speaker already begins to use a style of exhortation more common at the very end of a plea, characterized especially by *pleonasm* that often features parallelism of sound (*paromoiosis*) as well. **ἀθέως καὶ ἀκλεῶς:** cf. 1.22 ἀθέμιτα καὶ ἀνόσια καὶ ἀτέλεστα καὶ ἀνήκουστα, 1.23 ἀβούλως τε καὶ ἀθέως, and Gorgias, *Pal.* 36 ἄθεον ἄδικον ἄνομον, where words seem to be chosen as much for sound as for sense. This is the earliest occurrence of ἀκλεῶς ("without glory"), a rare word recalling mythological heroes such as Agamemnon, who (Orestes argues in *Eumenides*) died without glory. **τῆς εἰμαρμένης:** sc. μοίρας: "his appointed time." **ὕφ' ὧν ἤκιστα ἐχρῆν:** agent with τὸν βίον ἐκλιπών, which has the implicit passive sense "being killed"; similarly ἀποθνήσκω may serve as the passive of ἀποκτείνω with the agent expressed by ὑπό + genitive (e.g. 1.22). For the expression cf. Soph. *OT* 1184–5 (φύς τ' ἀφ' ὧν οὐ χρῆν, κτλ.).

**22 ἀνήκουστα** "not to be heard," i.e. not to be granted. **ἤμ τιμωρῆσαι:** something probably has dropped from the text; Th's suggestion is printed *exempli gratia*. Ba defends the MS text, arguing that the defense will ask for pity, but it is hard to see how the Greek could

yield this sense (or any sense). οὐκ ἔπεισε μὴ κακοτεχνῆσαι: the accusative and infinitive are rare after πείθω meaning “persuade” (S 1992n.), but cf. Aesch. *Eu.* 724. τῶν ἐκ προνοίας ἀποθνησκόντων: a clear indication that the court is the Areopagus, where cases of intentional homicide were tried (see *Introd.* 4, and further Gagarin 1990b: 94). ἐν ὑμῖν “in your power,” “up to you.”

23 διαχρησαμένης: lit. “use thoroughly”; here, with an accusative object, it has the rare meaning “kill” (Herod. 1.24, Thuc. 3.36.3). ἀβούλως “without thought or concern.” Ba translates ἀβούλως τε καὶ ἀθέως “without regard for her husband or the gods.” ὧν ἡδίκηκε = τούτων ἃ ἡδίκηκε, the normal attraction of the relative to the case of its (omitted) antecedent; cf. 1.21 ὑφ’ ὧν, 2.1.2, etc. τοῦ πατρός μου: μου is rare as a reflexive possessive pronoun (S 1199d, KG 1.569) and many editors emend to τούμου, but A. seeks parallelism with the preceding μητρός τῆς αὐτοῦ. δικάσται . . . ἐκλήθητε: the verb (καλέω) calls attention to the range of meanings of δικαστής, which can mean “punisher” (Eur. *HF* 1150; cf. δίκη = “punishment”) as well as “juror.”

24 ἐπεξέρχομαι: see 1.1n. ὃν ἐπεξελεῖν. τιμωρήσω κτλ.: echoes τιμωρῆσαι κτλ. in 1.3, where the jurors are asked to avenge the laws first, then the victim. ταύτης: adverbial (“in this matter”); in the next sentence it is simply the dative pronoun (“her”); such false parallelism is common in A. (*Introd.* 8 v 4). εἰ ἀληθῆ λέγω: the indicative implies that of course he is speaking the truth (Ba); in 1.23 ἂν ὑμᾶς πείθῃ the subjunctive implies that his brother is unlikely to persuade them. παριδοῦσα “disregarding.” καθέστηκε: 1.1n. The subject is οὗτος (τάναντία is adverbial).

25 καὶ . . . καὶ . . . καὶ . . . καί: *polysyndeton* (1.21n.). γίγνοιτο: since this must be a potential optative, all modern editors add ἂν (after καὶ γάρ); but A. sometimes omits ἂν in this construction and in the apodosis of contrary-to-fact conditions (*Introd.* 8 iii 2). ὥσπερ . . . οὕτω: the idea of equal retribution for crime is pervasive in early Greek thought, notably in the *Oresteia* (cf. 1.17n.). ἀνελεημόνως καὶ ἀνοικτίστως “without pity and without mercy” (M), but there is scarcely any difference in meaning; cf. 1.20 εὐθέως παραχρῆμα.

26 ἐκουσίως καὶ βουλευσασα τὸν θάνατον (ἀπέκτεινεν): a verb is required and all modern editors add ἀπέκτεινεν (some also delete τὸν θάνατον), which states the essential accusation of murder, “she killed (him)”; the adverb and participial phrase add further dimensions:



“intentionally and having planned the death” (i.e. with premeditation). βιαίως “by violence”; the word seems to imply an intentional killing (for βιαίωι θανάτῳ, see Gagarin 1981: 141–3). The original meaning of φόνος, which is etymologically related to θείνω, “strike,” is “killing with a blow.” The law assigning murder cases to the Areopagus, as cited in Dem. 23.22 (φόνου καὶ τραύματος ἐκ προνοίας καὶ πυρκαϊᾶς καὶ φαρμάκων, ἐὰν τις ἀποκτείνῃ δούς), implies that φόνος did not originally include poisoning. The significance of the final condition is unclear. If a poisoner must have given the drug himself, the defense may argue that the stepmother is not, therefore, a poisoner (or killer); and the speaker may be trying to forestall this line of argument by emphasizing intentionality and premeditation and by claiming that the death, at least, was violent (even if the killing was not). He uses a rhetorical question (πῶς γὰρ οὐ) to mask the weakness of this last point. τε: 1.9n. ταύτην functions as both object of ἐλεεῖν and subject of τυγχάνειν – a rather forced construction.

**27** οὕτω δέ τοι καὶ ἐλεεῖν: the text is suspect but no good emendation has been proposed. For οὕτω we may perhaps compare its use at the beginning of a story (LSJ s.v. I.4); καί must be intensive (“indeed”), unless another infinitive is supplied. ἐκουσίοις καὶ ἐκ προνοίας: 1.5n. ἀδικήμασι καὶ ἀμαρτήμασι: the second term is added largely for the sake of sound effect (*paromoiosis*, Introd. 8 v 2). Α ἀμαρτήμα is an error for which the agent usually incurs some responsibility but it is not as vicious as an ἀδικημα. ἥρωας: although dead heroes had cults throughout Greece, this probably does not refer to any specific hero, but rather is included as part of the pleonastic expansion characteristic of this section (αἰσχυνθεῖσα οὐδὲ δέισασα, μήτ’ αἰδοῦς μήτ’ ἐλέου μήτ’ αἰσχύνης, etc.). δικαιοτάτης . . . τιμωρίας: mild *hyperbaton* (1.3n.).

**28** θαυμάζω δὲ ἔγωγε: the same words begin 1.5; there the genitive object is followed by a noun clause, here by an articular infinitive (cf. Dem. 24.111 θαυμάζω τῆς ἀναιδείας αὐτοῦ, τὸ μὴ ποιήσασθαι). τῆς τόλμης . . . καὶ τῆς διανοίας: hendiadys (“audacious thinking”); τόλμη alone would have the same meaning. διομόσασθαι: 1.8n. εὐ εἰδέναι: 1.6n. οὐ γὰρ . . . μαρτύρων γ’ ἐναντίον: cf. 2.3.8, where the same observation supports a different point. ὥς . . . καὶ ὥς: false parallelism (Introd. 8 v 4); the first ὥς strengthens the superlative (S 1086a), the second introduces a result clause (ὥς for ὥστε), also implying purpose.

**29** πρίν . . . κακῶι: the speaker uses the same expression of the *pallakē* (1.19), who is (in his view) as much a victim of the stepmother as the dead man. πρίν with the subjunctive without ἄν is rare in prose (S 2444b, KG 11.455 n.2), but see e.g. Herod. 1.32, Thuc. 6.29.1 (Intro. 8 iii 2). γιγνώσκωσι κτλ.: perhaps an allusion to the doctrine of *pathei mathos* (“learning through a suffering”), so prominent in the *Oresteia*; cf. 1.17n. φθάνωσι πρίν “have time (to do something) before”; φθάνω is usually accompanied by a participle (e.g. Thuc. 6.97.2), but cf. Xen. *Anab.* 4.1.21. ἀναγκαίους: 1.4n. σφετέρους: since A. elsewhere uses σφέτερος with αὐτῶν (1.30, 5.77, 6.39), all modern editors add αὐτῶν here; but σφέτερος without αὐτῶν is fairly common in Herodotus and other early prose, and A. is not always consistent in such matters (Intro. 8 i, 8 vi 4; cf. 1.11n. on θέλων, 1.13n. on οἰκεῖον σφίσι, 2.1.10n. on εἴησαν, etc.). μαρτύρονται “call to witness,” the regular meaning of the middle; the active means “bear witness,” “testify.” ἐπισκήπτουσι: 1.1n.

**30** παιδί: the normal limit on the age of a παῖς was about fourteen, but the speaker seems to imply that he was younger than this. τήν ἀθλίαν . . . νοσῶν: the whole expression is tragic. ἐάν δὲ τούτων ἀμαρτάνωσι “if they lack these,” i.e. family and friends. ἐπέστειλεν: nearly synonymous with ἐπέσκηπτεν, but less technical and less solemn.

**31** The epilogue is surprisingly restrained; now that he has fulfilled his duty to his father, the speaker seems content to let the jurors decide as they see fit. ἐμοί: dative of agent with both verbs. διήγεται “my story has been told”; this refers to the whole case, not just the narrative, but implies perhaps that the narrative (διήγησις) forms the bulk of his case. ἐν ὑμῖν: 1.22n. καὶ τοῖς θεοῖς τοῖς κάτω: this vague reference to the underworld gods is the only possible hint in this speech of the idea of pollution (Intro. 7) so prominent in the Tetralogies (especially in epilogues). The speaker’s final remark here seems almost perfunctory.

### The Tetralogies

The three Tetralogies are exercises in argumentation (Intro. 3); none of their speeches was written to be delivered in court. Each concerns an imaginary homicide case (perhaps based on a real case), and the three together illustrate different types of argument (Intro. 3, with n.26). In

the First the facts are in dispute: did the accused do it? In the Second the facts are admitted but the legal consequences of those facts are in dispute: should the defendant be held legally responsible for the boy's death? In the Third several issues are raised, but the main dispute concerns justification: was the defendant's self-defense (as he alleges) justified despite its consequences?

The nature of these cases makes the Tetralogies different from the court speeches in several ways. Narratives are omitted or reduced to the bare essentials necessary to understand the case; primary attention is given to the arguments, which become rather complex, especially as an argument is answered by the opponent whose counter-argument is then answered in turn. The prologues and epilogues are generally rather elaborate and contain little that is directly relevant to the case. A.'s apparent purpose is to provide examples of legal argumentation that would provide useful training for the variety of cases (not just homicide) a litigant might face. See further *Introd. 6 ad fin.*, 7 and 8 (esp. 8 vii).

Later rhetoricians placed the Tetralogies in their general classification of legal cases according to the *stasis* ("issue"; Lat. *status*) raised by the case, the most basic division being between questions of fact and (to put it broadly) questions of law – whether the facts constitute an offense, whether the act was otherwise justified, etc. (see further Kennedy 1963: 306–14). According to the "hypotheses" (brief introductions to the cases written by ancient scholars), the *stasis* in the First Tetralogy was *στοχασμός* (conjecturing about the facts), and in the Second and Third either *ἀντέγκλημα* (counter-accusation) or *μετά-στασις* (transfer of blame). But ancient scholars developed several different versions of *stasis*-theory, and the hypotheses make clear that there was disagreement about the classification of the Second and Third.

We see a foreshadowing of *stasis*-theory in Aristotle (*Rhet.* 1.13.9 10, 1373b38–74a17), who distinguishes cases where the facts are in dispute from those where the facts are admitted but the defendant denies there is a crime. Both Gorgias and A. seem to have understood this basic distinction, since each composed speeches for a case in which the facts were disputed (*Palamedes*, First Tetralogy) and for one in which the facts were accepted but their interpretation was disputed (*Helen*, Second Tetralogy and to some extent the Third). In this sense, A. seems to have conceived of the first two Tetralogies as a complementary pair.

## 2. First Tetralogy

*Background.* There is no narrative proper (2.1.4n.), but the facts emerge from the arguments. This case concerns a man who (with his servant) was killed in the street late at night. When the crime was discovered, the man was dead, but the servant, before he expired, is said to have identified the accused as one of the assailants. There are no other witnesses. At the end (2.4.8) the defendant claims to have been home that night and says that his slaves will confirm this.

*Arguments.* Two kinds of proofs (*pisteis*) are used in the case, the direct (“non-artistic”) evidence of witnesses and the indirect (“artistic”) arguments developed by the speakers – in Aristotle’s words, *πίστεις ἄτεχνοι* and *πίστεις ἐντεχνοί*. Until the defendant’s last speech the only direct evidence is testimony of the dying servant; this evidence is questionable and so does not preclude the need for supporting arguments. The defendant’s offer to provide the testimony of his slaves to confirm his alibi would be strong direct evidence, perhaps strong enough to overcome any indirect evidence, but the issue is not developed (see further 2.4.8n.).

Most of the indirect arguments are *εἰκός*-arguments (arguments from probability or likelihood, Introd. 5). These are commonly applied to questions of fact, where (as here) the direct evidence is lacking or questionable (e.g. Gorgias’ *Palamedes*). The *εἰκός*-arguments in this case could be used with only slight modification in a wide variety of cases where the essential question was “who did it?”. They are supplemented by other commonplace arguments, such as the citation of previous service to the city (also a kind of *εἰκός*-argument). The direct evidence and indirect arguments are kept separate and at several points the speakers explicitly or implicitly recognize that the former are more powerful than the latter (2.1.2, 2.10, 3.8, and esp. 4.8 οὐκ ἐκ τῶν εἰκότων ἀλλ’ ἐργῶι; cf. 4.10).

The issue of pollution (Introd. 7) is raised in all four speeches. The main arguments for the prosecution are (A) since a killer pollutes the whole city, the speaker has a religious duty to prosecute and convict the true killer; if he prosecutes an innocent man and obtains a conviction, even if the fault is the jurors’, the pollution (i.e. the dead man’s avenging spirit) will fall on him (1.3); (B) on the other hand, if the jurors acquit

this defendant, who is guilty, the pollution will fall on them (3.9–11); (C) the whole city (and thus the jurors) will suffer if the killer is free, for his presence will defile sanctuaries, ruin crops, etc. (1.10–11). In response the defendant agrees, of course, that the guilty (not the innocent) should be prosecuted and argues that since the plaintiffs are pursuing an innocent man, they themselves ought to suffer the pollution, and they will be responsible for ruined crops, etc. (2.11).

*Assessment.* The plaintiff starts with the advantage of the eye-witness identification of the accused, which seems to be confirmed by the *εἰκός*-arguments; but the defendant plays a possible trump card at the end by claiming an alibi supported by the testimony of his slaves. Since the plaintiff is given no chance to respond, we cannot assess the strength of this claim; A. may be trying to show that although weak direct evidence may be questionable and require support from *εἰκός*-arguments, strong direct evidence such as an alibi outweighs indirect arguments. Essentially the same point is made in the plaintiff's first speech (1.1–2) that it is easy to find compelling proof of a casual crime (presumably from direct evidence), but a carefully planned crime that leaves no direct evidence will require *εἰκός*-arguments. The First Tetralogy is thus an exercise in the use of *εἰκός*-arguments, and at the same time a demonstration of the limited role of these arguments.

*Outline.* Each of the four speeches has a brief prologue and epilogue largely devoted to well-known themes. The proofs are treated systematically, the arguments of the first speech being answered point for point in the second, and so forth; new arguments are also introduced by the defendant.

The main arguments are:

1. Exclusion of other possible suspects or scenarios: common criminals killed him, the victim had been drinking or had quarreled, or was the victim of an accident (1.4, 2.5, 3.2, 4.4–5); he had witnessed another crime (2.6, 3.2, 4.4–6); he was killed by other enemies of his (2.6, 3.3).
2. The accused's motives (1.5–8, 2.8–9, 3.5–7).
3. Evidence of the witness (1.9, 2.7, 3.4, 4.7).
4. The defendant would have had an agent kill him and would not be present himself (2.8, 3.5, 4.8).

5. The likely killer is not the actual killer (2.10, 3.8, 4.10).
6. Previous service to the city (2.12, 3.8, 4.9).
7. The defendant's alibi (4.8).

## 2.1

### 1 3 Prologue

*In all three Tetralogies the prologue of the plaintiff's first speech contains general observations about the nature of the case; the three defendants' first prologues, by contrast, discuss their own personal situation. Two points are made here: a carefully planned crime will leave little direct evidence, so that the case must be decided on probabilities (1 2); and fear of pollution compels the speaker to prosecute the true criminal (2-3).*

1 μὲν: 1.1n. τῶν ἐπιτυχόντων: lit. "those who happen by," i.e. "ordinary people." ἐπιβουλεύεται: 1.17n. ἱκανῶς πεφυκότες "with sufficient natural ability." ἐν τούτῳ τῆς ἡλικίας "at that point of (their) life." For the attributive genitive with a demonstrative, see Lys. 5.3; cf. S 1325, KG 1278 9. καθεστῶτες: 1.1n. κράτιστοι φρονεῖν αὐτῶν: the epexegetic infinitive specifies the particular aspect of power: "at the height of their mental powers" (Mor). The genitive of the reflexive pronoun with a superlative (cf. Xen. *Mem.* 1.2.46 δεινότατος ἑαυτοῦ) may be seen as an extension of the genitive with comparatives (e.g. 5.7 χεῖρον ἑαυτῶν λέγοντας; examples in KG 11314). δειχθῆναι: most editors (Th, G, M, but not DC) emend to ἐλέγχθῆναι because of ἐλέγχεσθαι in 2.2.3. But although verbal echoes are common in responding passages in the Tetralogies, the text here is sound. A. prefers the compound verbs ἀπο- and ἐπι-δείκνυμι, but the simple verb is found in 5.76. For the *homoioteleuton* (γνωσθῆναι καὶ δειχθῆναι) see Introd. 8 v 2.

2 ἐκ πολλοῦ "for a long time." ὧν: genitive by attraction (1.23n.). οὐ πρότερον . . . ἢ may be followed by the subjunctive without ἄν (Herod. 1.199, 9.86; Thuc. 7.63) designating future, repeated or expected action (S 2458, KG 11454 5). More common in prose is οὐ πρότερον . . . πρίν. φυλακὴν ποιήσονται = φυλάσσονται; for the periphrasis, see Introd. 8 iii 5. The expression recurs in Thucydides 3.46. γινώσκοντας κτλ.: for the word order (χρῆ governs πιστεύειν) and sense see Introd. 8 vii. εἰκός: for the role of

arguments from probability in this work, see introduction to 2, above. **ἐπεξερχόμενοι**: 1.1n. **οἱ ἐπεξελθεῖν**; the accusative indicates the charge (homicide); cf. 4.3.6n. **οὐ** negates the combined action of **ἀφέντες** . . . **διώκομεν**.

**3 σαφῶς . . . οἶδαμεν**: 1.6n. **οἶδαμεν** is apparently an Ionic form (Introd. 8 i, with n.61) found in Herodotus (2.17, 4.46, 7.214, 9.60) and Hippocratic works of the late fifth to late fourth centuries (*VM* 20, *Epid.* 4.57, *Liqu.* 1), but also in Aristotle, *An. Post.* 93a25. **μιαίνομένης**: for pollution in this Tetralogy, see introduction to 2, above; **μίασμα** is the strongest term A. can use. **τ' . . . θ'**: 1.18n. **ποινῇ**: an archaic term for "blood-vengeance." The entire pollution will be his if they convict the wrong man. **μή** indicates that the participle has a conditional force (S 2728 34). **ὥς . . . ὥς**: another false parallelism; cf. 1.28n.

#### 4 9 The proofs

*After eliminating other likely suspects (4), the defendant presents several likely motives for the crime (5-8) and then discusses the servant's evidence (9). The method of setting forth and then rejecting all the possibilities (or all but one) is called "apagogic" after Aristotle, *An. Pr.* 29a5-6 (ἀπαγωγή εἰς τὸ ἀδύνατον); it is used by Gorgias in *Helen*. Three of the proposed alternatives (cloak-stealing, drunkenness, a quarrel) are common reasons for a night-time assault; the fourth (an accident) is preposterous, implying that the speaker has already eliminated all plausible alternatives.*

**4 οὐτε . . . ἄνδρα**: It has long been recognized that there must be a lacuna here. Aldus' supplement is provided *exempli gratia*, with the last word changed to **ἄνδρα** instead of **ἄνθρωπον** (1.17n.), since in this work **ἄνδρα** is always used of the victim (except in 2.2.2). **ἄνδρα** would also account more easily for the scribal error (skipping from **ἄνδρα** at the end of 1.3). Although it is possible that a brief narrative also dropped out, none is needed here. **κακούργους**: a technical term designating specifically thieves, muggers (**λωποδύται**) and kidnappers, but often more loosely applied to "common criminals," who could be prosecuted by the special procedure of **ἀπαγωγή** (see 5.8 19n.). Here the term (if it occurred) would designate muggers, who rob people of their cloaks; a cloak was probably the most valuable item an Athenian ordinarily had with him (Cohen 1983: 82). **οὐδείς . . . ἄν . . . ἀφῆκεν**: contrary to

fact. τὴν ὠφέλειαν “the profit,” i.e. the cloak. [ἄν] must be deleted, since the victims were found with their cloaks. The scribe was perhaps influenced by other nearby instances of γὰρ ἄν. οὐ μὴν οὐδὲ . . . οὐδὲ μὴν οὐδ’ . . . οὐδὲ μὴν: οὐ μὴν οὐδέ and οὐδὲ μὴν both mean “nor moreover” and are fairly common in Classical prose (*GP* 338–9), but this sequence is unique; the closest parallel is the fourfold οὐδὲ μὴν in Plato, *Parm.* 139b 40a, where the argument is even more systematically organized than here. οὐ γὰρ ἄωρι: most modern editors (not B, Th) add ἄν before ἄωρι for the sake of parallelism. But although ἄν is possible, the sense is essentially the same without it: “they were not quarreling late at night.” But A. may be seeking some variation in phrasing (Introd. 8 v 3). τῷ ἀκολουθῶι “attendant”; the word normally designates a slave (5.24n.).

5 ἀπολυομένης . . . ὑποψίας “now that all suspicion is removed” (from other suspects); a summarizing gen. abs. with causal sense (cf. 2.1.3, ἅπαντος . . . ἀναχωροῦντος). ἀπολύω also means “acquit” or “absolve.” αὐτὸς ὁ θάνατος: i.e. the time and place of death rule out accidental or unpremeditated homicide. ἐξ ἐπιβουλῆς: 1.3n. ἀποθανόντα: 1.21n. μᾶλλον εἰκός: also in 2.2.6, 5.74; the regular comparative εἰκότερον occurs five times. ἐπίδοξον ὄντα πάσχειν “expects to suffer”; cf. Herod. 6.12 πολλοὶ μὲν ἡμέων ἐς νοῦσους πεπτῶκασι, πολλοὶ δὲ ἐπίδοξοι τῷ τούτῳ τοῦτο πείσεσθαι εἰσι. Fear and a desire for revenge are commonly alleged as motives. ἔστι κτλ. answers the rhetorical question. ἐκ παλαιοῦ κτλ.: protracted legal struggles were not unusual in Athens; cf. 6.34–50, Dover (1974) 182. The legal conflict forming the background for this case is described in a carefully structured sentence exemplifying A.’s use of circumstantial participles in the Tetralogies (Introd. 8 iii 3): ὦν . . . διώξας . . . εἶλεν . . . διωχθεὶς . . . ἀποφυγὼν . . . ἀποβέβληκε . . . γεγραμμένος . . . συνειδῶς . . . ὦν . . . μνησικακῶν . . . ἐπεβούλευσεν . . . ἀμυνόμενος . . . ἀπέκτεινε τὸν ἄνδρα. Past indictments are first summarized by two finite verbs each preceded by two participles; then four participles describing the defendant’s latest dilemma are followed by two finite verbs (the latter preceded by a participle) drawing the likely conclusion. The four participles describing the defendant’s dilemma lead him inevitably, it seems, to the action of the main verbs: being indicted, knowing he was guilty, having experience of the dead man’s legal ability, and recalling previous injuries, he formed a plan and killed him. For the idea of



compulsion cf. 2.1.9 βιασάμενα. **γραφάς**: a cognate accusative with διώξας (“prosecute a case”); the specific charge is expressed by a genitive (e.g. 2.1.6 ἱερῶν κλοπῆς). Since a γραφή was a procedure available to anyone (Introd. 4) and usually involved crimes of public concern, the implication is that the accused was not seeking to recover private losses but was going out of his way to indict the victim on public charges. **οὐδεμίαν**: the defendant’s lack of success (cf. 2.1.6 οὐδεπώποτε) may seem unlikely, but the case is imaginary and A. wants the εἰκός-arguments to be as strong as possible. **εἶλεν**: αἰρέω (pass. ἀλίσκομαι) is the standard term for “gain a conviction,” ἀποφεύγω for “win acquittal.”

**6 ἀποβέβληκε** “has lost,” by paying fines when convicted. **τὰ ἀγχιστα** “most recently.” The adverbial accusative (sing. or pl.) of ἄγχιστος, usually without the article, is common in poetry, but in classical prose is found only in Herodotus, Hippocratic writings and here (cf. 2.1.3n. on οἶδαμεν); the sense is usually local, but cf. Herod. 2.143. ἱερῶν κλοπῆς . . . **γεγραμμένος**: probably a γραφή ἱερῶν χρημάτων, or theft of sacred property, the fine for which was apparently ten times the amount stolen (Cohen 1983: 100–1). **δυοῖν ταλάντοιν**: the genitive probably indicates the fine for conviction, not the amount of the theft, since the speaker would presumably use the higher figure; for the amount see Introd. 4: *A note on currency*. **ἐπεβούλευσεν** emphasizes that the homicide was premeditated; later (2.2.8) the possibility arises that the defendant only planned the crime. **ἀμυνόμενος**: the defendant could not plead self-defense (cf. the Third Tetralogy) since the victim had not struck an actual blow.

**7 ἐπιθυμία . . . φόβος**: for contemporary interest in the emotions, especially fear, see Gorgias, *Pal.* 19, *Helen* 16–17. The speaker seeks to attribute the crime to both irrational emotion and the rational calculation of advantage (ἥλπιξέ τε). The parallelism of ἡ τε γὰρ ἐπιθυμία τῆς τιμωρίας . . . ὁ τε φόβος τῶν ἐπιφερομένων κακῶν is unusual (Introd. 8 v 2). **θερμότερον ἐπιχειρεῖν ἐπήριε** “got him more fired up to attempt” (the deed); the infinitive is epexegetic. **τάδε μέν**: probably correlate with εἴ τε in 2.1.8 (*GP* 374–6), unless (with Th) we change τε to δέ; the contrast is between success and failure (being caught). **ἐρήμην** “forfeited,” lit. “empty”; if either party was absent, he forfeited the case.

**8 εἴ τε καί** “even if.” **ἀλοῖη**: here in its literal sense (cf. 2.1.5n.); but ἀλωσόμενος below means “would be convicted.” **κάλλιον**: protracted legal struggles among the rich and powerful were often as much

a matter of honor and status in the community as of specific fines and punishments (cf. Cohen 1991, who speaks (p.157) of litigation as a “game of honor”). **πάσχειν . . . διαφθαρῆναι**: these terms (as Thiel notes) suggest a milder penalty for being caught than for losing his case, but although a fine of two talents would presumably cause financial “ruin” and exile, the penalty for homicide could be death. **αὐτήν** “in it” (the γραφή). **οὐ γὰρ ἂν** “(otherwise) he would not.” The circularity of the argument is evident upon reflection.

**9 τὰ μὲν βιασάμενα . . . αὐτόν** “the considerations that forced him” (*hyperbaton*, 1.3n.). **μάρτυρες**: to the εἰκός-arguments is now added the evidence of an eye-witness; Arist. *Rhet.* 1.15, 1376a17–23 gives examples of arguments that witnesses are better than εἰκός-arguments and vice versa (see Gagarin 1994). Some hearsay evidence was excluded from a trial, but the evidence of someone now dead was permitted (Dem. 46.7; cf. Harrison 1971: 145–6). **ἀκολούθου**: 2.1.4n. **ἄρθεις**: aorist passive of αἴρω (ἀείρω). **παίωντων κτλ.** “out of those striking them he said he recognized only him.” Among modern editors only DC retains παρόντων; but the speaker needs to show that the defendant was an assailant, not just one of those present. With παρόντων, αὐτούς would designate the slave and his master and would be the subject of γινῶναι, a difficult *hyperbaton*.

### 9–11 Epilogue

*The epilogue resumes the themes of the prologue; it is marked by a more balanced style and frequent double τε (and οὔτε/μήτε). For the idea of pollution, see Introd. 7 and introduction to 2, above.*

**9 δικάϊως . . . συμφερόντως**: the interplay of justice and advantage is well known from Thucydides; see also Ant. fr. 44A DK, 1.12–23 (Decleva Caizzi 1989: 192–3), Plato, *Rep.* 338c, etc. **ἀπολύοιτ'**: 2.1.5n. on ἀπολυομένης.

**10 οἱ τε κτλ.** explains οὔτε δικάϊως, as becomes clear when ἀσύμφορον begins the next clause. **ἐπιβουλεύοντες**: 1.17n. **εἶσαν**: most editors (not DC) change to εἶεν, which is slightly more common than εἶσαν in Herodotus (seventeen instances vs. fourteen) and Lysias (four vs. three) and much more common in prose after Lysias. In A. the MSS show six instances of εἶεν and two of εἶσαν (here and 3.4.6). **<τε>** is not strictly necessary, but the rhetorical nature of this passage makes it

likely that this is what A. wrote. τὰς αὐτὰς τραπέζας “the same meals,” where he would infect others. συγκαταπιμπλάναι “infect” (a ἄπ. λεγ.); cf. Introd. 7 with n.53. A medical sense is probably in the background; καταπιμπλημι can mean cover with wounds or blisters (*Morb.* 2.1, 2.54, etc.). ἀφορταί “barrenness” of the earth. There are no examples in myth or history of crop-failure resulting from a simple homicide, leading Parker to conclude (1983: 130) “It seems that the author of the *Tetralogies* has taken the doctrine of pollution to a theoretical extreme.”

11 The sentence is short but carefully structured: the infinitive with χρή is amplified (cf. 2.1.2 γινώσκοντας . . . χρή . . . πιστεύειν) by two parallel circumstantial participles, and καταστήσαι is completed by two parallel noun phrases of nearly identical length linked by μέν/δέ. The two participial phrases (P<sub>1</sub>, P<sub>2</sub>) and two noun phrases (N<sub>1</sub>, N<sub>2</sub>) have a complex arrangement that is both chiasmic, since N<sub>1</sub> and P<sub>2</sub> stress the public dimension of the crime and N<sub>2</sub> and P<sub>1</sub> urge that the effects of the murder be restricted to the killer, and parallel, since N<sub>1</sub> and P<sub>1</sub> refer to the need for vengeance, N<sub>2</sub> and P<sub>2</sub> to the effect of pollution. οἰκέλαν “your own concern”; i.e. the jurors’. αὐτῷ τούτῳ: 1.2n.

## 2.2

### 1–4 Prologue

*The defendant laments his hapless situation.*

1 A *captatio benevolentiae* (Introd. 6). Fortune (τύχη) is often lamented as the general cause of events but rarely in such detail. ἡγούμενος: conditional (“I am not mistaken if I consider”). νοσήσωσιν “fall sick”; the aorist indicates an action rather than a state (“be sick”). ἐάν τε: τε is less likely than δέ to be the result of scribal error (for single τε, see 1.9n.).

2 ἄνθρωπος: used only here of the victim (2.1.4n.); cf. 1.17n. ἀνατροπεύς . . . ἐγένετο = ἀνέτρεπεν (“destroyed”); for the periphrasis, see Introd. 8 iii 5 (and cf. ἀρκοῦν . . . ἐστίν below). The noun occurs only here in classical Greek, probably coined by A. ἀποφύγω: 2.1.5n. εἰς τοῦτο . . . βαρυδαίμονις: 2.1.1n. ἀρκοῦν . . . ἐστίν: A. always uses this periphrasis in place of ἀρκεῖ (2.3.3, 2.4.10, 4.3.6; cf. Thuc. 2.35.1). The argument that he should not have to find the true killer in

order to prove his innocence recurs in 5.64-6. παρέχοντα μὴ διαφθαρῆναι: ἀρκέω in the sense of "is sufficient" can be constructed with a nominative participle (here in the accusative after ὥστε) or an infinitive but rarely both. Translate "showing my purity and innocence is not enough to save me from ruin." καταδοχθεῖς "be suspected," occurs in classical Greek only in this Tetralogy (2.2.3, 2.3.7) and in Herodotus.

3 παγχάλεπον: with εἶναι. For the allegation of inconsistency in being shown to be both clever and foolish, cf. 5.43, Gorgias, *Pal.* 25 κατηγορήσας δέ μου . . . δύο τὰ ἐναντιώτατα, σοφίαν καὶ μανίαν. ὥς δ' ἡλίθιον κτλ.: the sense is clarified in the next sentence: by saying that it is clear from my (previous) actions (i.e. my disputes with the victim) that I did the deed, they take me for a fool. εἰκότερον ἦν προειδῶτα . . . καὶ . . . διακωλύειν "it was more likely that I would foresee . . . and would even prevent"; καὶ is emphatic with διακωλύειν. The imperfects (including ἀπωλλύμην and ἤδη later in the sentence) could also be taken as contrary-to-fact without ἂν (Introd. 8 iii 2). For the reverse εἰκός-argument (being the likely suspect makes one more likely to avoid committing a crime), see Introd. 5. οὔσαν . . . ἐπιβουλεύοντα: participles in indirect discourse with verbs of perceiving or knowing. Almost all editors change οὔσαν to ἰοῦσαν in three places (2.2.3 *bis*, 2.2.6). This produces good sense, and ἰοῦσαν has the further advantage of allowing a future sense ("foreseeing that this present suspicion would come on me," cf. 2.3.2 εἰς τούτους ἂν ἡ ὑπόψια ἦκεν); but οὔσαν is unlikely to be a scribal error in three separate places or a scribe's conscious change. DC defends οὔσαν but gives false parallels for εἰς with intransitive verbs. We may keep οὔσαν by understanding εἰς with ὑπόψιαν, as in expressions like ὑποψίην ἐς ἐμὲ ἔχεις (Herod. 3.52). Translate "foreseeing the suspicion which there now is against me." αὐτόν "myself." ἐκουσίους . . . ὑποψίας ἐμπεσεῖν: when A. uses ἐκούσιος/ἀκούσιος with nouns other than the subject, the force is often adverbial, as here: "come under willing suspicion" = "willingly come under suspicion." φανερός γενόμενος . . . λαθών: the two alternatives are expressed by conditional participles: either the crime provides clear evidence of his guilt (this may imply being caught in the act; see M's note), or he escapes notice while committing the crime but is suspected anyway.

4 μὴ . . . μόνον: with the infinitive not the participle: "being forced not only to." ἔχω δὲ οὐδαμῶς ἄλλως ἐλέγχειν ἢ ἐξ ὧν "I can prove my

case by no other means than those by which . . .”, i.e. εἰκός-arguments. φησι: in 2.1.5. ἐν ἐμοί “on my hands.” δικάως: preferable to *A*’s δ’ εἰκότως; if there are other reasonable suspects, the defendant’s innocence would be a matter of justice, not likelihood (2.4.5 is sometimes cited to justify εἰκότως, but this is not an exact parallel). All modern editors add ἄν before καθαρός, but see 1.25n. καθαρός “innocent”; the usual meaning in the orators, though often in the Tetralogies (and twice in *Ant.* 5) it has its literal sense “free from pollution.”

### 5–10 *The proofs*

5 οὗτοί φασιν: in 2.1.4. πλανώμενον: with the (unexpressed) subject of διαφθορῆσαι, i.e. the victim; the addition of αὐτόν would make the construction clearer. σημεῖον: 1.10n. ὀν τεκμήριον. ἔφησαν περιδύσαντες “(if they did not) strip it off in time.” Translation of φθάνω (“anticipate”) with a supplementary participle varies widely with the context. φοβηθέντες: the aorist passive of some verbs regularly has a middle sense (S 814–15). τοῦ κέρδους: genitive of comparison with προτιμώντες (S 1403).

6 ἀπέθανεν: 1.21n. τίς οἶδε: the vague rhetorical question suggests the implausibility of this scenario. τοὺς . . . μὴ . . . μισοῦντας: μὴ indicates an indefinite expression (KG II 201–2, cf. S 2728a): “those who hated him no less than I.” πῶς οὐκ εἰκός ἦν: another rhetorical question, but virtually equivalent to a positive statement. Since the eleven other instances of εἰκός (εἰκότερον) ἦν in *A.* have no ἄν, we should follow the original scribe of *A* and omit it here. The speaker adds a new twist to his reverse εἰκός-argument (2.2.3): not only would he be less likely to kill the man but others would be more likely to kill him, knowing that he was the prime suspect. οὔσα: 2.2.3n.

7 τοῦ δὲ ἀκολούθου: the defendant’s first two points – that the attendant would be frightened and would be induced to identify him as the killer – are plausible, especially in view of the long-standing hostility between him and the victim. The absence of a *basanos*, however, proves nothing. τῶν κυρίων: if the victim was found by his relatives, they would now be the slave’s masters. ἀναγιγνωσκόμενον: common in Herodotus but only here in Attic prose in the sense of “persuaded.” The lexicographer Harpocration (second century AD) reports, however, that it was so used by Isaeus, so we cannot assume this sense is only Ionic.

οὐ γὰρ ἄν “(otherwise) we would not.” 2.1.8n. ἐβασανίζομεν: obviously no interrogation was possible under the circumstances.

8 τὰ εἰκότα: the speaker is not asserting the equal value of εἰκός-arguments (see Introd. 5) but is showing that he can match the plaintiff’s use of these arguments. ταῦτόν: adverbial: “similarly” (cf. Plato, *Phil.* 37d); earlier editors change the text in various ways. τὴν ἀσφάλειαν κτλ.: if he were planning to kill the man, he would take precautions not even (καί is intensive) to be present; i.e. he would enlist someone else to carry out the crime. This is the first suggestion that the defendant might have planned the murder but not committed it himself. The planner of a homicide was treated just like the actual killer (4.2.5n.). τοῦτον: the slave, subject of γινῶναι. γινῶναι: sc. με.

9 The defendant exposes the weakness of the prosecution’s argument that murder posed less risk than the γραφή he faced (2.1.6-8). ὥς . . . διδάξω: A. often begins a sentence with a long ὥς or ὅτι clause followed by the main verb: e.g. 2.3.6, 3.4.6, 5.8. εἰ μὴ παρεφρόνουν: scarcely more than a rhetorical aside, but perhaps intended to remind the reader that εἰκός-arguments presume rational behavior, which is not always the case (especially in criminals). τοῦ δὲ σώματος καὶ τῆς πόλεως: i.e. he would not be executed or exiled, as he would if convicted of homicide (though a large fine might cause a person to go into exile, as Aeschines did after losing the case “on the crown” to Demosthenes). λειφθεὶς “left alive” (LSJ s.v. λείπω B.I.3), a *pleonasm* (1.20n.) after περιγενόμενος. καὶν . . . συλλέξας: conditional: “even if I had to borrow.” ἔρανον: an interest-free loan from friends; later an association of friends that lends money to its members. τὰ ἔσχατα κακά: a common euphemism for death. καταληφθεὶς: καταλαμβάνω in the legal sense of “convict” is found only in the Tetralogies and inscriptions. ἀποθάνω . . . ἢ φυγών: the defendant may consider exile an alternative to the death penalty (Introd. 4); or he may have in mind the possibility of going into exile before his second speech. ἐπὶ ξενίας: sc. γῆς (LSJ s.v. ξένιος II.1).

10 ἀπολύεσθαι depends on δίκαιος, which is considerably delayed (*hyperbaton*). εἰκότως μὲν ὄντως δὲ μὴ: even if I am the killer “in likelihood but not in fact.” The speaker argues that probability should not take precedence over the facts. This argument and the responses to it (2.3.8, 2.4.10) highlight the crucial theoretical issue of the validity of εἰκός-arguments, which lies at the heart of this Tetralogy. δίκαιός

εἰμι = δίκαιόν ἐστί με; A. often prefers a personal construction for δίκαιος, though an impersonal construction is more common in Greek and usually necessary in English. ἡμυνόμεν must refer to his legal defense in the γραφή, which was still in progress at the time; hence the emendation to the imperfect (accepted by all modern editors). Elsewhere (2.1.6, 4 *passim*) ἀμύνω implies physical self-defense. τοὺς αἰτίαν ἔχοντας ἀποκτεῖναι: probably “those who had reason to kill” (Mor) rather than “those accused of killing” (M, G), though DC may be right to see both senses present.

### 11-13 Epilogue

11 A response to the argument about pollution in 2.1.10. τῆς τε ἀφορίας: 2.1.10n. ὑμᾶς . . . καταστήναι: mild *hyperbaton*. πάντων . . . τυγχάνειν: more extreme *hyperbaton*. δίκαιοι εἰσι: 2.2.10n.

12 ἔκ τε: for single τε, see 1.9n. ἔκ τε τῶν προειργασμένων: previous services to the city and its citizens are often mentioned in legal defenses. Here A. provides a checklist of services, presenting the defendant as one who had undertaken every possible service as often as possible; in a real case the speaker could supply the appropriate details. εἰσφοραί are special war-time taxes on the rich; a trierarch underwrites the cost of equipping and maintaining a trireme for a year; a χορηγός pays the expenses of training a chorus for a dramatic or choral performance (for more on the χορηγός, see Ant. 6). These three services are the most commonly mentioned “liturgies” (ληιτουργίαι, 5.77) or public duties, the latter two of which were assigned to rich men in a regular rotation. The two services listed after these are common private ways of helping friends. πολλάς . . . πολλὰ . . . πολλοὺς . . . πολλῶν: the *anaphora* (repetition of the same word in successive clauses), combined with μεγάλας (twice) and λαμπρῶς, adds strong emphasis. εἰσφοράς: Thucydides (3.19.1) refers to an εἰσφορά being levied for the first time in 428. If this means the first time ever, it may furnish a *terminus post quem* for this work (see Sealey 1984: 77-80). πολλά: adverbial. πολλοὺς . . . ἐρανίζοντα “lend money to many men” (2.2.9n. on ἔρανον). Some editors change to πολλοῖς, but the verb is too rare for us to be certain of its construction (G 59 n.2). ἐγγύας “sureties”; i.e. money deposited for someone else as a guarantee of his performance of an obligation (cf. 5.17, Plato, *Ap.* 38b). τε . . . τε: many editors,

ignoring the frequency of τε in the Tetralogies, read δὲ . . . δέ because there is support for the second δέ in one MS; but cf. 2.2.1n. on εἰάν τε. οὐ δικαζόμενον “not by litigation,” which could earn one the charge of being a “sycophant” (Intro. 7). φιλοθύτην “devoted to sacrifices.” Together with νόμιμον (“law-abiding”) it indicates observance of divine and human customs and duties; cf. the pairing of ὅσιον and δίκαιον, which occurs eight times in the Tetralogies (2.2.2, 2.4.12, 3.2.2, 3.2.12, 3.3.11, 3.4.10, 4.2.2, 4.2.9) and in 6.10. καταγνώτε “convict”; an accusative with καταγιγνώσκω can indicate either the crime (as here) or the person convicted.

13 ὑπὸ ζώντος: i.e. by the victim while he was still alive. αὐτὸν . . . τοῦτον: the victim (cf. 1.2n.). βοηθοῦντας: sarcastic: “those who say they are helping him.” ὠφελεῖσθαι “derive profit from” (ὠφελέω). The common charge that the prosecution were seeking to profit from the litigation is often vague about details (introduction to 5, below), which here are admittedly passed over. It is unlikely that the plaintiff would receive a direct share of the defendant’s confiscated estate upon conviction, but there were other ways to benefit from a prosecution (see further Intro. 7). ἐφ’ οἷς κατηγορεῖτε “(I would reveal) the reason why you are prosecuting” (LSJ s.v. ἐπί B.III.2). The sudden switch to the 2nd person produces a striking effect that some editors remove by reading -εῖται. ἐπιεικότερον ἢ δικαιότερον “more for the sake of decency than justice.” The double comparative is normal (S 1080). A law μὴ λέγειν κακῶς τὸν τεθνεῶτα was attributed to Solon (Dem. 20.104). παρήσω: (from παρήμι) *paraleipsis* (1.18n.) here, as often, enables the speaker to imply considerably more than he could legitimately say. τῶν μεγίστων κριταὶ καὶ κύριοι: even if no longer true, these words would recall the ancient position of the Areopagus (see Intro. 4). ἀτυχίαν recalls ἀτυχέστατον (2.2.1). συνεπιβάντας “enter upon together with,” a rare double compound (Intro. 8 ii 4). περιιδεῖν “overlook,” “allow,” often with a participle, as here (“overlook me being ruined” = “allow me to be ruined”).

## 2.3

### 1 Prologue

*The prologue is minimal so the speaker can move straight to his counter-arguments.*

1 ἀτυχία: for the personification of abstracts, see Intro. 8 ii 2.



**προϊστάμενος** “by putting (it) in front of,” i.e. “covering up.” **μιαρίαν** the earliest occurrence of this rare equivalent of **μίσμα**; in A. only in the Tetralogies. **ἀκούσιον** regularly (and **ἐκούσιος** occasionally) has two terminations. With **συμφορὰν** it has an adverbial sense (2.2.3n.): “an unwilling misfortune” = “a misfortune (the victim) unwillingly received.” **καταστάς**: 1.1n. **ἀπελογήθη**: the use of the aorist passive of this verb for the aorist middle is rare (S 812b); in classical Greek it is confined to the Tetralogies (also 2.4.3, 3.3.2, 4.3.1). **πειρασόμεθα ἐλέγχοντες**: in the orators an infinitive usually follows **πειράομαι**; only Herodotus regularly uses a participle (cf. Plato, *Theaet.* 190e). All the proofs in this speech are indeed aimed at rebutting the defendant’s arguments.

## 2-8 *The proofs*

**2 εἴτε γὰρ κτλ.**: lit. “for if those having killed them, seeing ahead of time people approaching, leaving (the scene) had departed fleeing,” etc. The accumulation of participles in this sentence is extraordinary, as Dover notes (1950: 57, iiε). **ὅς . . . ἐμαρτύρει**: these words are often deleted as a marginal gloss (cf. 2.1.9) mistakenly inserted into the text, but there is a certain logic to it: “the servant, who was picked up breathing and testified, they would have found still conscious” (i.e. since he was found by us even later and was able to testify then, surely he would have been conscious when they found him). **τούς ἐργασαμένους ἡγγεῖλαν**: the speaker does not make the stronger argument that these passers-by would be known. **κακουργοῦντες**: 2.1.4n. **γνωσθῶσι**: in purpose clauses the optative is normal after a secondary tense, but the subjunctive may be used in its place (S 2197). **τούτων**: the victims (**τούτους** = the **κακοῦργοι**). **ἐκηρύσσετο** “would be reported.” The verb normally designates an official proclamation, of the kind made by the *basileus* after a homicide (see Introd. 4), but since we have no knowledge of an official proclamation of a **κακούργημα**, this may refer to an informal report.

**3 οἱ τε ἡσσον κινδυνεύοντες**: i.e. others who were less troubled by the victim than the defendant. The argument responds to 2.2.6. **τῶν . . . ὄντων**: genitive of comparison with **μᾶλλον ἐπεβούλευσαν** (“would be more likely to plot”). **τούς μὲν . . . τοῖς δέ** “the latter (i.e. the defendant) . . . the former.” The sentence displays a Thucydides-like variation in clauses that begin with close parallelism. **ἢ τε ἀδικία**:

probably the wrong done them by the victim, which stirred their sense of vengeance, rather than a crime they themselves had committed. **προμηθίας** is accepted by most editors; **προθυμίας** can only be retained by adding a negative to **ικανή**, but this is paleographically more difficult. **ὁ τε κίνδυνος**: the danger of detection (and its consequences), echoing the different danger expressed by **κινδυνεύοντες** above. **διαφορᾶς** “disagreement,” intentionally minimizing it; not “profit,” a meaning for which LSJ (s.v. V) give only this passage. **ἀρκοῦσα ἦν**: 2.2.2n. It goes with both **κίνδυνος** and **αἰσχύνῃ**, but agrees in number and gender with the latter. **τὸ θυμούμενον τῆς γνώμης** “the spirited part of their soul,” i.e. “their anger.” This use of a genitive with a neuter substantive is characteristic of Thucydides (Rusten 1989: 22–3), where the same phrase occurs in 7.68.1; cf. 2.59.3 **τὸ ὀργιζόμενον τῆς γνώμης**, Gorgias fr. 6 DK **τῶι φρονίμῳ τῆς γνώμης**.

**4 ἐπί**: for the sense see LSJ s.v. B.III.2; cf. 2.2.13n. **βασανίζονται**: 2.2.7n. It is often said that a slave could be freed for giving information about a serious crime (5.34n.); there was probably not a law to this effect, but it may have been common practice. **συγκρύπτωσι** “conceal (something) in conspiracy with.” **βασανίζοντες** “(only) if we torture them.” The examples given are all of torture in a criminal investigation (see Intro. 7).

**5 οὐδὲ μὴν**: 2.1.4n.; the argument answers 2.2.8. **αὐτῶν**: his agents, the actual killers; the text is suspect, since no agent has been mentioned, but proposals for emendation, such as exchanging **αὐτῶν** and **τῶν παρόντων**, are unconvincing. **ἥσσον πράσσειν** “would be done less effectively”; the infinitive depends on **ἐμελλε**. **οὐδεὶς . . . ὅστις . . . οὐκ** = “everyone”; the expression is treated as a single pronoun and may be inflected (S 2534).

**6** answers 2.2.9, where **ὥς . . . διδάξω** (2.2.9n.) also occurs. **ἀλῶναι**: 2.1.5n. **θῶμεν** “let us assume,” the earliest use of a logical expression that is common in Plato. **παραχθῆναι**: the object of **παράγω**, “bring before (the court),” can be a defendant, a witness or (as here) a case (LSJ s.v. III.1.a). **ἐπείθετο**: in legal contexts **πείθω** often means “reach a settlement (out of court) with someone”; in many cases money would be part of the “persuasion”; cf. 5.80n. **οὐκ ἤλπισε**: the force of **οὐ** is with the inf. (S 2691–2), as in English “he did not expect to come” = “he expected not to come.” **λήσειν** “he would not be detected” (**λανθάνω**).

**7** The reverse εικός-argument (2.2.3, cf. 2.2.6) would ultimately lead by a *reductio ad absurdum* to the conclusion that the least likely suspect was most likely to be the murderer (because he would never be suspected), even though he would have no motive at all. **καταδοκεῖσθαι:** 2.2.2n.

**εἰ γὰρ . . . οὐδείς γ' ἄν:** Thiel and DC argue that the MS text can be retained if ἄν is added (οὐδείς γὰρ ἄν), but this produces a nearly incoherent sequence of thought. **ἀποστρέψαι:** most editors change this to ἀποτρέψαι, but Thiel and DC cite Ant. fr. 58 DK πολλάκις ὁ διὰ μέσου

χρόνος ἀπέστρεψε τὸν νοῦν τῶν θελημάτων (cf. Xen. *Eq. Mag.* 1.12). ἥσσον . . . ἐπέθετο “would be less likely to attack.” The change from MS ἡγεῖτο to ἐπέθετο is paleographically unlikely, and DC argues for keeping the MS reading as being equivalent to ἐπεβούλετο, but this seems impossib<sup>le</sup>; the alternative is to keep ἡγεῖτο and assume that something dropped out.

**8 εἰσφορά:** 2.2.12n. **εὐδαιμονίας** “well-being” or (as here) “prosperity”; the traditional translation “happiness” is misleading. **εἰκότως μὲν ἀνοσίως δέ:** a clear echo of 2.2.10, εἰκότως μὲν ὄντως δὲ μή. **φάσκων:** in 2.2.10. **εἴπερ ἐγένετο φανερόν κτλ.:** i.e. if the facts are

evident (i.e. known), they take precedence over εικός-arguments (cf. 2.1.2, 2.4.8n.). Gorgias (*Helen* 11) makes a similar argument on the need for δόξα in the absence of ἀλήθεια. **ἀποκτείνας . . . εἴη:** periphrasis with the aorist participle is rare (Gil 293); it suggests both “killed” and “is the killer”; cf. 3.4.4. Aerts (1965) 32-3, defends the text against those who would add ὁ before the participle. **ἐπὶ μαρτύρων** “in the pres-

ence of witnesses”; the same point is made in 2.1.1. Thiel (followed by DC) keeps MS ὑπό (“attendant circumstances”), but the parallels he cites concern actions “accompanied by” music, which is not the same; for ἐπὶ μαρτύρων, see Is. 7.29.

### 9-11 The epilogue

**9 φανερώς:** A. generally prefers φανερός in this construction, but the similar expression in 4.3.6 (οὕτω δὲ φανερώς ἐκ παντὸς τρόπου ἐλεγχόμενος) supports the MS reading here. φανερός (later corrected in A) probably arose from a scribe conforming to A.’s usual practice. **ἐκ τῆς αὐτοῦ ἀπολογίας:** because every point in his case has been turned against him. **ἐλεγχθείς διαφθείρας** “convicted of having killed him.”

εἰς ὑμᾶς αὐτούς: the defendant's pollution will fall on the jurors if they acquit him, since he is guilty; cf. 2.1.3, where the speaker claims that he himself would have the entire pollution if they convict an innocent man.

μήτε ἐκ τῶν εἰκότων μήτε ἐκ τῶν μαρτυρουμένων: cf. 2.1.9, ὑπὸ τε τῶν εἰκότων ὑπὸ τε τῶν παραγενομένων.

οὐκ ἔστιν ἔτι: the suggestion that an acquittal in this case will set a precedent for the future is common in forensic oratory, but the Athenian sense of precedent is necessarily loose. Without judges, the jurors could not be compelled to decide two identical cases in the same way, though we may probably assume that there was a general consistency in their verdicts.

10 ἀδίκως . . . γενήσεται: most editors move this sentence to follow the next sentence (after αὐτόν), but as Thiel and DC note, the MS order provides an acceptable sequence of thought.

προστρόπαιος, ἐνθύμιος: both words are poetic; except for Aes. 2.158 (προστρόπαιος) they occur in prose only in the Tetralogies, where they are common. The first describes the unavenged victim as "turning to" someone for vengeance, the second as "weighing on the conscience" of someone. Dodds (1951: 37, 55 n.46) takes ἐνθύμιος as evidence of the "internalizing of conscience" in the late fifth century, but it is not clear that the sense of the word has changed much from its poetic uses.

τὰ ἴχνη . . . φέροντα: accusative with γιγνώσκοντες. For φέροντα = "lead" (intrans.) see LSJ s.v. A.VII.1. The personification is poetic; DC cites Aesch. *Prom.* 845 εἰς ταῦτόν ἐλθὼν τῶν πάλαι λόγων ἴχνος. The same expression recurs in 2.4.10.

11 A rhetorical flourish at the end with considerable *pariosis* (1.5n.) in the three imperatives at the beginning, but variation in the three units that follow. For balance one would expect a verb after ἐπιτηδεύοντας; the reader has to supply καταστήσετε from the preceding clause. ἀγνεύετε: cited by Harpocration from Ἀντιφῶν ἐν τῶι β', indicating that by the second century AD this Tetralogy came second in a collection of A.'s speeches.

ἐλάσσους . . . πλείους: the implication is probably that a conviction will deter other criminals and inspire other people to attend to religious duties, though it could mean simply that there will be one less criminal (the defendant) and one more dutiful citizen (himself).

ἀπολύεσθε: some editors change to the future, ἀπολύσεσθε, but the present is sometimes used with a future sense (KG I 138(b)) and A. seems to be seeking variation here.

## 2.4

## 1-4 Prologue

*The defendant complains of being treated unfairly. The prologue shows considerable rhetorical embellishment with parallelism and concentrations of participles.*

1 Ἴδού "behold," a dramatic expression otherwise absent from the orators. ὡς οὐτοί φασιν: in 2.3.1. ἐκὼν "voluntarily." He could have chosen to go into exile at this point (4.4.1n.). διαβολῆς "accusation," usually (as here) implying slander. πιστεύων δὲ τῇ ὑμετέραι γνώμῃ: flattery is common in all forensic oratory. τῇ . . . ἀληθείαι τῶν . . . πραχθέντων: lit. "the truth of what was done." This expression and variations of it commonly designate objective or factual truth as opposed to conclusions drawn from arguments (references in Wyse 1904: 222); it is particularly important in the Second Tetralogy (3.2.3 etc.). A. wrote a work entitled Ἀλήθεια in two books. ἀποστερούμενος . . . μηδὲ . . . ἀνακλάσασθαι "prevented from even lamenting"; μηδέ is logically redundant, but see S 2739-40. ἀπορῶ: 1.1n.

2 καινότατα . . . κακουργότατα: *paromoiosis* (Introd. 8 v 2). καινός often suggests "new-fangled" (i.e. sophistic) and thus suspect (cf. Eur. *Medea* 298 καινὰ σοφά). Of course, accusing one's opponents of sophistry may also be a means of concealing one's own clever argumentation. τῆς ἀληθοῦς ὑποψίας "valid suspicion" (i.e. valid suspects), referring to those the defendant has identified as likely (for A.'s fondness for abstraction, see Introd. 8 ii 2). ἀπορίαν: with genitive = "lack of knowledge about" (cf. Herod. 4.83). τάναντία: 1.2n. προστέταται: the duty to prosecute the killer of a close relative was implicit in Athenian law, but no specific legal sanction was prescribed for someone who did not do so.

3 προσῆκεν: the imperfect implies that his obligation, only to refute the direct evidence against him (i.e. the attendant's statement), is not fulfilled (S 1905, KG 1204-6); in this case he is not allowed to fulfill it and thus he must take on the additional task (περιεργαστέον) of identifying the true killer. μηνυτής . . . ἐλεγκτήρ "informant (cf. 5.34n.) . . . convictor"; nouns with εἰμί are used instead of a more normal construction (such as οὐ χρή + infinitive); ἐλεγκτήρ (only here in Greek) was probably coined by A. for this passage. ἀπολυόμενον . . . τῆς ὑποψίας: *hyperbaton*.

4 ἦι με διαβάλλουσιν: i.e. the misfortune that he happens to be the likely suspect is the main support for their accusation. μεταστῆναι: intransitive, though he is clearly asking the jurors to make the change.

#### 4-10 The proofs

*The defendant gives a final response to most of the arguments previously raised and adds one new point, an alibi (4.8).*

4 φασί: in 2.3.2. οὐδένα ὄντινα οὐκ: 2.3.5n. σαφῶς . . . ἀγγεῖλαι: both words are used in 2.3.2. πυθόμενον can take an accusative of either the person questioned or, as here, the person about whom an inquiry is made.

5 ἀσπαίρουσι “quivering,” a poetic word, also in Herodotus. περὶ τῆς ψυχῆς κινδυνεῦσαι “risk his life” (cf. Thuc. 8.50.5); in A. ψυχή should generally be translated “life” or “spirit,” since it does not normally have the characteristics we associate with “soul” (but cf. 4.1.7). τούτων . . . δρασάντων κτλ.: to this point the argument seems valid: many, if not most, passers-by would probably run off in such circumstances (even today). But these hypothetical passers-by, who were created to explain why the “likely” murderers did not steal the victim’s cloak, are now spoken of as actual persons, who “preferred to do what was likely” (also 2.4.6 τούτων τῶν κακούργων), as are the hypothetical muggers, whom it would no longer be reasonable to acquit. The argument is still valid as a response to the plaintiff, who was responding to the defendant, who in turn was responding to the plaintiff’s argument that the man was probably not murdered for his cloak (2.1.4); but the defendant essentially turns likelihood into fact. μᾶλλον ἄ: several editors (B, G, DC) suggest emending, but no change is needed. οἱ μὲν: the alleged footpads.

6 ἐκηρύσσοντο: 2.3.2n. τίς οἶδεν: cf. 2.2.6. ἀφανοῦς: for some sophists (Gorgias, *Helen* 13, Protagoras in some interpretations of the *Theaetetus*) the work of *logos* was to discern or bring out the truth of things that were “non-evident,” and A. sometimes (e.g. 2.3.8) uses φανερός with nearly the sense of “true.” Here the implication is that since nothing is known about a possible report, it is excluded from consideration. If this work is intended to teach others forensic strategy, this point may be a warning that one should do a thorough investigation so that one can support one’s arguments (the plaintiff had argued in

2.3.2 that if other crimes had been committed at the time, they would have been reported). οὐδὲ . . . ἀπίστον “it is not implausible” (litotes).

7 πιστοτέραν . . . ἢ τῶν ἐλευθέρων misleadingly suggests that testimony from free persons supports his case. ἀτιμοῦνται: although several speeches survive from suits for false witnesses (δίκη ψευδομαρτυριῶν), we know very little about the procedure (Dem. 45, 46; see Todd 1990a: 36–8). Someone convicted three times of ψευδομαρτυρία lost his civic rights (ἀτιμᾶσθαι), which included of course the right to be a witness. Since this punishment would be meaningless for a slave (who had no civic rights), torture could be seen as an equivalent “confirmation” (ἐλεγχος) of his testimony. τίς ἐλεγχος ἔσται: the question is rhetorical, since there obviously can be no confirmation now that the slave is dead; but the general point of ἀκινδύνως κτλ. is valid: since he was testifying without risk, he could be persuaded to testify as his master wished. ἀκινδύνως τε οὗτός γε: many editors seek greater parallelism by emending, usually to ἀκινδύνως δὲ οὗτός τε balancing ἐγὼ τε. But A. sometimes uses τε . . . τε to join dissimilar expressions (e.g. 2.2.3, 2.3.1). ἔπαθεν . . . πεισθείς: πάσχω with a complementary participle (lit. “have the experience of being persuaded”) is apparently unparalleled (LSJ III.4). μὴ πιστῶς “not credibly.”

8 The defendant’s alibi is strengthened by the inclusion of a notable detail (τοῖς Διπολείοις). The delayed mention of this alibi might seem a ploy to prevent the plaintiff from responding, but the arguments in a homicide case would be known from the pre-trial hearings (Dorjahn 1935) and the introduction of a challenge to *basanos* during a trial would be unusual, to say the least (cf. Aes. 2.126; Thür 1977: 99–102). A. probably saves the alibi till the end so as not to render the earlier εἰκός-arguments meaningless; the brevity of the discussion of the alibi may indicate that it requires less skill (and thus less training) than the εἰκός-arguments. The alibi only refutes the charge that the defendant was the actual killer, but he could still have planned the crime; hence the further argument on motive (2.4.9). φασίν: in 2.3.5. οὐκ ἐκ τῶν εἰκότων ἀλλ’ ἐργῶι implies that an alibi provides direct evidence of a different sort from (and more valid than) the εἰκός-arguments. ὁπόσοι . . . βασανίσαι: a typical challenge (see Introd. 7); παραδίδωμι is the regular verb for offering one’s slaves. καὶ ἐὰν μὴ φανῶ “if it becomes clear that I did not”; μὴ negates καθεύδων, but not ἐξελθῶν. πον: most editors change to ποι, which is regular with verbs of motion; but there

are parallels for *που* (DC cites Xen. *Hell.* 7.1.25 ὅπου βουλευθεῖεν ἐξελθεῖν; cf. LSJ s.v II *ad fin.*) and we should be careful about regularizing A.'s Greek. **τοῖς . . . Διπολείοις**: an annual festival in honor of Zeus Polieus in the month Skirophorion (roughly June). As "the most peculiar of Attic festivals" (Parke 1977: 162) it would be good for confirming an alibi (cf. Bremmer 1994: 41–3 for discussion of the Dipoleia and theories of Greek sacrifice).

**9 φασιν**: in 2.3.8. **νεωτερίζειν** "innovate," often with the implication "make revolution." Aldus' conjecture is accepted by almost all editors; the rare verb *ἐταιρίζειν* makes no sense in the context. One murder, of course, is not a revolution, and the general rule that the poor make revolution while the rich prefer stability is not directly relevant to this case (and has nothing to do with the prosecution's argument that the murder was committed to protect the defendant's wealth from a ruinous lawsuit); but the argument is relevant in suggesting that "street crime" is normally the work of low-class common criminals, not rich citizens. **συμφέρι** "it is advantageous"; in this sense the participle is more common, esp. τὸ συμφέρον, "advantage," (e.g. 5.50), a key term in Thucydides. **ἐπίδοξος . . . ἐστι** "is expected" (with *δυσπραγία*, "ill fortune"), usually used of persons in the sense "expects" (e.g. 2.1.5). **τοῖς δ'**: sc. *συμφέρι*. **καθίστανται**: 1.11.

**10** summarizes the defendant's case: the *εἰκός*-arguments have been shown to favor him, the slave's testimony is unreliable and unconfirmed, and the evidence is on his side. **οὐκ εἰκότως ἀλλ' ὄντως**: cf. 2.2.10, 2.3.8. **ἄλλα**: some explain this as "otherwise" or "other than the direct evidence," but no sense really fits the context and translations usually read as if it were missing. It might be best to delete the word, but it is not easy to explain how it entered the text; perhaps some elaboration of the *εἰκότα* has dropped out leaving only this remnant. **πρὸς ἐμοῦ** "on my side"; cf. 3.2.2. **τεκμήρια** "evidence" (1.10n.), probably referring specifically to the evidence of the alibi and the challenge to *basanos*. **ἐμά, οὐ τούτου** "in my favor, not his (the plaintiff's)." **τά τε ἴχνη**: 2.3.10n. **ὑπ' αὐτῶν**: with ἀπολυομένους (cf. 2.4.3), not ἀποδέδεικται, as one might expect. The word order seems almost designed to confuse.

### 10–12 *The epilogue*

**οὐκ . . . οὐκ ἔστιν ἐξ ὧν** "it is not the case that . . . there is no means by which" (S 2760); for the argument see 2.3.9. **ἐλεγχθῶ** "I am proven



(guilty).” ἐλέγχω does not strictly mean “convict,” but it derives this sense from the context here (as does the preceding ἐλεγχθήσονται); B and others unnecessarily change ἐλεγχθῶ to καταληφθῶ. ἀρκοῦσα: 2.2.2n.

**11** καθαρός “innocent” (2.2.4n.). The preceding καθαροί, however, probably means “pure” and refers to their claims to be free from pollution. ὑπὲρ ἑμαντοῦ: most editors add μέν to balance ὑπὲρ δέ or write ὑπὲρ τε . . . ὑπὲρ τε, but although antithesis is common in A., his style shows great variety and we must not impose a false consistency on it (G adds μέν to the text of A. four times!). ἐπισκήπτω: sc. ὑμᾶς; for the sense, see 1.1n. ἀναμνησκων . . . παραινῶ “reminding . . . I advise you,” i.e. “I advise you to remember.” ποιήν: 2.1.3n. τὸν ἀνάτιον . . . αἴτιον: cf. 2.1.2, 2.2.11. καταλαμβάντας: 2.2.9n.

**12** For the warning about later regrets, see 5.71 (μὴ οὖν ὕστερον τοῦτο γνῶτε), 5.91, 5.94. ὁσίως καὶ δικαίως: 2.2.12n. οὐ φιλοθύτην. ἀνίατος: only here in an active sense “providing no cure,” elsewhere “incurable”; cf. Gorgias, *Pal.* 34 μετανοήσασι δὲ ἀνίατα.

### 3. Second Tetralogy

*Background.* Some young men were practicing javelin-throwing, apparently in the presence of trainers (3.3.6), when a boy ran out on the field to pick up the javelins; he was accidentally struck and killed by one of them. The youth who threw the unfortunate javelin is now charged with unintentional homicide, which is tried at the Palladion; the penalty was a limited period of exile (Intro. 4). This is not a case of “lawful homicide” (which would be tried at the Delphinion), for the provision that absolved someone who killed while “competing in an athletic contest” (*AP* 57.3), probably envisioned an accidental death in a boxing match rather than an accidental death during a practice session (Gagarin 1978a: 116 n.24).

Plutarch (*Per.* 36.3) reports that after a competitor was killed in a similar situation, Pericles and Protagoras spent an entire day discussing whether the javelin or the thrower or the organizers of the contest (ἀγωνοθέτας) were responsible for his death κατὰ τὸν ὀρθότατον λόγον. Speculation on the influence of Protagoras on A. (or vice versa) is futile. Whether or not an actual incident gave rise to these (and other) discussions, the story indicates that the causes of and responsibility for

accidental events occupied the attention of many intellectuals at this time.

*Arguments.* In contrast to the First Tetralogy, the facts of this case, which the plaintiff states succinctly, are not in dispute. Thus the plaintiff (the dead boy's father) presents no argument at first, and the main argument is presented in the defendant's first speech and is then debated in the two litigants' second speeches. The defendant (the accused youth's father) argues that his son is not responsible for the boy's death since he did nothing wrong; rather the boy is responsible for his own death (and in a sense "killed himself") since he committed an error by running out on the throwing field when he should not have. The argument rests on an assessment of each person's behavior by comparison with the behavior of others in the same situation: the youth did the same thing as the other youths who were throwing javelins, but the boy behaved differently from the other bystanders (who did not run out on the field). The plaintiff's response is that even if the boy shares some of the blame, the youth cannot be entirely exculpated, and since the boy is now dead, the youth should be penalized at least for his share of the blame.

*Assessment.* The basic issue is the legal and moral responsibility for an act of which a person is (to use modern terms) a necessary but not a sufficient agent. The argument that the thrower bears no responsibility, since he did nothing wrong, poses the sharpest possible contrast with the plaintiff's traditional assumption that anyone who played a part in causing the death is guilty at least of unintentional homicide. Athenian law almost certainly did not lay down precise guidelines for such situations, and it is unclear what conclusions jurors would normally reach in such a case. Some of the same issues are relevant to Ant. 6.

The defendant's arguments are constructed around three basic antitheses: the youth vs. the boy, the youth vs. the other throwers, and the boy vs. the other bystanders. The antithetical style and analytic content of these arguments are in sharp contrast to the brief statement of facts in the plaintiff's first speech. A. acknowledges that the audience may find the defendant's arguments overly subtle, but his purpose, presumably, is to lead even those who do not accept the defendant's conclusions to a more sophisticated understanding of the issues.

By setting the issue in terms of "error" (ἀμάρτημα, 1.27n.) and by

comparing the two parties' actions to those of others at the scene, A. comes close to a modern concept of "negligence" in terms of a "reasonable man" standard of behavior. The discussion of cause and effect, intention, and responsibility is, to be sure, less sophisticated than we find later in Aristotle (see esp. *Nic. Ethics* 3.1 5), but A. has progressed well beyond the traditional views of epic and drama, where many agents, human or divine, may be blamed for an act and all seem to be fully responsible. A.'s analysis presumably reflects in part the sophists' discussions of the issue; he may also have been stimulated by discussion in the law courts.

*Outline.* The first speech is a simple statement of the facts and a plea for justice; its brevity reinforces the impression that this conclusion is *prima facie* so obvious that no response is expected. The defendant accepts these facts but argues that all the fault belongs to the victim himself; the youth did everything properly and committed no error; he thus deserves acquittal. A novel, and puzzling, argument is then added (3.2.9), that the "law against unjust and just homicide" acquits the youth. The plaintiff, in addition to the stock arguments of pity for the victim and regard for pollution, responds with statements of incredulity (to say that the boy killed himself is absurd!) and argues that the boy has already been punished for any error he may have committed, whereas the youth's error, however slight, remains unpunished. The defendant's final speech contains some interesting reflections on truth and forensic rhetoric and then repeats many of the arguments from his first speech.

### 3.1

*This brief speech includes a prologue (1), narrative (1) and epilogue (2), but no argument.*

1 τὰ μὲν ὁμολογούμενα . . . ἐὰν δέ τι ἀμφισβητήσιμον ᾖ: the change in construction reflects a "different degree of reality of the two poles of the situation" (Zuntz 1939: 126). κατακέκριται "are decided," with the prefix κατα- implying a guilty verdict. τῶν ψηφισμένων "those who voted" referring to those in the past who have voted for laws (or decrees) in the Assembly, which was open to all Athenian citizens. Many (M, G, Mor) take the aorist middle as a passive (cf. 2.2.5n. on φοβηθέντες)

and translate “decrees,” but there is no parallel for this use of ψηφίζω. DC takes these voters to be the jurors, but this would destroy the point of the contrast with disputed cases (which are also decided by jurors). πολιτείας “government,” though the Greek term is broader than the English and includes all aspects of civic life. ὧ ἄνδρες πολῖται: not found elsewhere in extant orations, but see Athenaeus 55of. (cf. Aesch. Ag. 855). ὁ γὰρ παῖς . . . ἀπέθανεν: a succinct statement of all the relevant facts; as Zuntz notes (1939: 122–3), this is the sole instance in this Tetralogy of λέξις εἰρομένη (“strung-out” style), as opposed to λέξις κατεστραμμένη “wrapped up” or periodic style (Arist. *Rhet.* 3.9.1–3, 1409a24–b8). παῖς (1.30n.) and μεράκιον (“youth,” implying an age of about 15–21) are consistently used of the victim and the thrower respectively. ἄκοντα: the plaintiff decided whether the charge should be intentional or unintentional homicide; the latter was tried at the Palladion (Introd. 4). The style now returns to being antithetical.

2 οὐκ ἐλάσσω τοῦ ἐκόντος ἄκων τὴν συμφορὰν κατέστησε “the misfortune he unintentionally caused is no less than if he had acted intentionally.” In early societies compensation or punishment is often required of someone who causes damage, regardless of intent (though intent may be important in other respects). τῷ δὲ . . . προσέθηκεν: The sentence is deleted as “maladroite” by G, as inconsistent with other uses of ἐνθύμιος by DC, but the death can weigh on the living if they do not punish the killer (cf. 2.3.10). It is characteristic of this speaker to use a “polar expression” (joining one expression with its opposite) for emphasis, even where unnecessary or inappropriate; cf. 3.1.1 ἐκόντα μὲν οὐκ . . . ἄκοντα δέ, 3.3.1 ἔργωι καὶ οὐ λόγωι. His point is that the death weighs heavily on him, the living. ἐνθύμιον: 2.3.10n. ὑμᾶς δὲ κτλ.: for the succession of circumstantial participles (here with the infinitive περιορᾶν), cf. 2.1.5n. ὅν ἐκ παλαιοῦ κτλ. ὧν ὁ νόμος εἵργει: Athenian law designated specific places as off limits to those formally accused of homicide (Introd. 4); see Dem. 20.158.

### 3.2

#### 1–2 *The prologue*

*The prologue is essentially a captatio benevolentiae (Introd. 6) with many commonplaces: the speaker is normally a quiet, simple, non-litigious man, who is*

*forced to appear in court and to employ unfamiliar subtleties in proving his son's innocence.*

**ἰ χρεῖται** "need" (also in 3.3.1), but "use," "benefit," in 3.3.4 and "relationship" in 5.63; the plural of abstract nouns is often used in Greek where we would use a singular (Gil 42). **ἀπράγμονας . . . ἡσυχίους**: both words designate those who avoid the courts; this is commonly said to be a virtue (Dover 1974: 188-90), but in the funeral oration (Thuc. 2.40.2) Pericles is critical of those who take no part in public life. **εἰς ἀγῶνας**: 1.2n.; its position is a notable *hyperbaton* that (like much of the rest of the speech) suggests a considerably more sophisticated intellect than the speaker claims. Most editors (not DC) supply καταστῆναι (cf. 4.1.1), but A., who often varies the construction, uses βιάζονται first absolutely (cf. Thuc. 7.69.4) and then with infinitives. **λέγειν καὶ δρᾶν**: cf. 3.3.1n. **εἰ μὴ πολὺ γε ἔψευσμαι** "unless I am greatly mistaken," apparently just a casual expression, but it suggests that the reader may well be correct to suspect a degree of conscious irony in these protestations. **ἀκριβειαν** "the precise meaning" of the events; cf. 3.2.2 ἡ δόξα τῶν πραχθέντων . . . ἡ ἀλήθεια (τῶν πραχθέντων). Both litigants know exactly what happened but they dispute precisely what it means. In 1.13 the speaker seeks τῶν πραχθέντων τὴν σαφήνειαν; clarity is more appropriate for a speech delivered orally, precision for a speech meant to be read (cf. O'Sullivan 1992: esp. 42-7, 137-8). **ἀπορωτέρως** "perplexed" (1.1n.). **ἐρμηνεύσαι** "interpret"; cf. Plato, *Laws* 907d λόγος . . . τῶν νόμων ἐρμηνεύς. In interpreting the events correctly the speaker conveys their true meaning to the jurors. For the two stages of difficulty, understanding and communicating to others, cf. the argument in Gorgias' *On Not-Being* (DK 3), that if anything exists one could not know it, and if one could know it one could not communicate it to others.

**2 μὴ διὰ κτλ.** "do not, because of the aforementioned circumstances, judge my defense by appearance rather than truth." Most editors unnecessarily add a negative qualification such as δυσχερῶς ("with ill favor"). **τὰς προειρημένους τύχας**: either the plaintiff's misfortunes (G) or (more likely) those just mentioned by the speaker (M). **δόξηι . . . ἀληθεῖαι**: this common opposition (Gorgias, *Pal.* 24 τὰναντία τὴν ἀλήθειαν τῆς δόξης) takes on great importance in this Tetralogy, where the facts are clear but their "truth" (i.e. true or correct interpretation) is in dispute (e.g. 3.2.3, 3.4.1-2). **πρὸς** "in favor of" (2.4.10n.).

λέγειν . . . πρᾶσσόντων: the defendant constantly manipulates the opposition of λόγος and ἔργον (3.3.1n.), here linking words with appearance but later arguing that the truth is to be determined from their speeches (3.4.2). δίκαια καὶ ὄσια: 2.2.12n.

### 3-9 The proofs

*A single, complex argument forms the essence of the case (3-8); a new argument in 9 adds little.*

3 τὸ γὰρ μειράκιον κτλ.: the defendant restates the facts of 3.1.1 more precisely and, he claims, more truthfully. οὐχ ὕβρει οὐδὲ ἀκολασίαι: a key argument for the defendant is to contrast behavior that would make the youth guilty (if he had acted so) with his actual behavior. ὕβρις (“arrogance”) would indicate an intentional killing, ἀκολασία (“lack of control”) an unintentional killing in which one is at fault. ἔβαλε μὲν: there is no need to alter the text (B and others read ἔβαλε μὲν οὐδένα). ἔβαλε means both “throw” and “hit,” but here it must designate only the former: the youth admittedly threw the javelin but (he claims) did not kill. τὴν ἀλήθειαν ὧν ἔπραξεν: the truth of the events, in contrast to their appearance (2.4.1n.); although words are needed to express this truth (3.4.1 2), it is grounded in the actual events and is not simply a product of words (3.2.4n.). ἄλλου . . . ἀμαρτόντος: the boy’s action is several times put in a genitive absolute (3.2.4, 3.2.5) to reinforce the impression that his erroneous behavior exists apart from the youth’s actions. For ἀμαρτάνω, see 3.2.5n. εἰς ἀκουσίους αἰτίας: 2.2.3n.

4 εἰ μὲν . . . τοῦ δέ: the hypothetical case of a throw that goes astray, which would be the youth’s fault, is contrasted with the actual events in which he did nothing wrong. The sentence shows how antithesis can be “an effective means of isolating and therefore clarifying concepts” (Finley 1967: 70). The contrast between the actual situation and its hypothetical opposite is the essential feature of antithesis in Hermogenes’ discussion (*Inv.* 4.2, p. 173 Rabe). τῶν ὁρῶν τῆς αὐτοῦ πορείας “the boundaries of its (proper) course.” οὐδείς . . . λόγος: although the facts may give rise to several different *logoi*, they also put limits on these *logoi*; had the facts been otherwise, the defendant’s *logos* would necessarily be different. ἄν is usually supplied in the apodosis of this contrary-to-fact condition, but A. has several other examples of this construction without ἄν (Introd. 8 iii 2, 1.25n.).

τοῦ δὲ παιδὸς κτλ.: for the genitive absolute, see 3.2.3n. <ὁ μὲν ἐκωλύθη>: something like this must be restored to the text; cf. 3.2.7, 3.3.6. τοῦ σκοποῦ “his goal,” i.e. a long throw within the playing field, but not an actual “target.” The Greeks competed for length, not precise accuracy, in the javelin throw. προσέβαλεν: a pun (“he has hit us with the blame”); one of the few frivolous touches in the defendant’s argument.

5 τῶν . . . ἀφεστώτων: just as the correctness of the youth’s actions is confirmed by his conformity to the actions of others in his position (μετὰ τῶν ἡλίκων, 3.2.3; cf. 3.2.7), the boy’s error is shown by the difference between his behavior and that of the other bystanders, who acted correctly and therefore were not hit. εἴπερ ἐστὼς κτλ. “if it is clear that he was no’ hit standing still, but . . .” In effect, μή negates ἐστὼς; the word order is very compressed. διὰ τὴν αὐτοῦ ἀμαρτίαν: the defendant has argued that his son did exactly as he intended and as was proper, whereas the boy acted improperly and in error; the next step is more difficult: the boy is therefore αἴτιος for his own death and is in fact his own killer (3.2.6–8).

6 ὑμῖν: a loose dative of reference (“as you see”), deleted by some editors. ἐκ τῆς ἀμαρτίας: the rather vague ἄλλου δ’ εἰς αὐτὸν ἀμαρτόντος (3.2.3) has been clarified in the intervening sections: the error occurred on account of the boy’s running-under (διὰ δὲ τὴν ὑποδρομήν), which was intentional (ἐκουσίως . . . ὑπελθών). A. now explains why the ἀμαρτία is the decisive factor in assigning blame for death. ἐλεγχθείη: for the omission of ἄν with the potential optative see 1.25n. οἱ τε γὰρ κτλ. “those who commit a ἀμαρτία in what they intend to do are agents of unintentional acts; and those who do or suffer unintentionally [as the boy acted and suffered] are responsible for their suffering.” The generalization – whoever made the mistake is to blame for the consequences – will lead to the conclusion that in this case the boy (3.2.8), not the youth (3.2.7), erred and is thus responsible. This interpretation requires that we read ἀκούσιον in the second half of the sentence (so Th). If ἐκούσιον is kept, the second half cannot be meant to imply an element of intent in the boy’s action (so G, DC), since the point of the argument throughout is responsibility for an unintentional act; it must therefore be understood as a general analogy with no specific reference to this case (“just as those who act intentionally”; so M, Mor). But this would remove the crucial point that the boy’s ἀμαρτία makes

him αἴτιος, and would render πάσχοντες meaningless (Th deletes ἡ πάσχοντες). Tom Cole suggests reading καὶ πάσχοντες, which would make a reference to the boy more precise, since the youth also might be said to have suffered ἀκούσιον in not hitting his target; but this would make the youth αἴτιον only for his own suffering not for the boy's death. τι δρᾶσαι: redundant, as Jebb notes (1888: 205); perhaps suggested by the word/deed antithesis.

**7** The youth's innocence is further emphasized by three antitheses, each in the form οὔτε . . . ἀλλά, contrasting his actual behavior with the hypothetical actions that would have made him αἴτιος. The third is expanded for emphasis and includes a further antithesis between doing and suffering (already in 3.2.6); the whole sentence then forms part of a larger antithesis with 3.2.8 describing the boy's error.

**8** καιροῦ: cf. 3.3.6; some editors (G, DC) keep the MS reading χώρου, but it would be hard to mistake the place where he should go to pick up the javelins, but easy to mistake the right moment for doing so, when the throwers had stopped. περιέπεσεν "he fell into" (misfortune); there is a play on the literal sense, "fall on" a weapon, cf. 3.3.6. ἀκουσίως δὲ ἁμαρτών: the emphasis on the boy's unintentional mistake here supports the reading ἀκούσιον in 3.2.6. κέχρηται: 1.8n. τῆς . . . ἁμαρτίας: genitive of the crime (so to speak): "he has punished himself for his mistake." συνηδόμενων . . . συλλυπούμενων: the Gorgianic effect of *pariosis* and *paromoiosis* (Intro. 8 v 2) in the four participles sounds an almost mocking tone, particularly in conjunction with the conclusion that the boy's death was just punishment (δίκη). τὸ ἔργον: all modern editors add τε to balance τό τε πάθος, but single τε is not unknown in A. (1.9n.). πάθος . . . δράσαντα: a clear allusion to the proverb δράσαντα παθεῖν (Aesch. *Ch.* 313).

**9** ὁ νόμος κτλ.: since the speaker does not pretend to quote the text of a specific law, and since a statute prohibiting lawful homicide would be self-contradictory (Intro. 7; see Gagarin 1978b), it is best to understand νόμος as law or homicide law in general (i.e. *ius* not *lex*). The speaker clearly equates "just" and "unjust" with "unintentional" and "intentional" homicide, both of which were punishable in Athens (Intro. 4), and the plaintiff later (3.3.7) paraphrases it as "the law states that killers should be punished." The defendant introduces this νόμος under the pretense that the prosecution have already introduced it (similarly in 4.2.3); he further pretends that both parts are relevant, though



obviously the prohibition of unjust (= intentional) homicide is of no concern in this case. The form of argument is similar to Gorgias' argument in *On Not-Being* (DK 3): he proves that "nothing exists" by proving first that not-being does not exist, second that being does not exist, and finally that therefore both do not exist. Only the second part of the argument is important. The style here is as artificial as the argument: πιστεύων is widely separated from the main verb (*hyperbaton*) and εἶργοντι is then awkwardly made to agree with the relative ὧι rather than νόμος; see further *Introd.* 8 vii. For ὧι πιστεύων . . . με διώκει, cf. 5.34. ὧι πιστεύων: this construction (relative pronoun and the participle of πιστεύω) occurs also in 5.34, 5.52; otherwise in the orators only in *Is.* 1.3, 1.42. ὑπὸ μὲν . . . ὑπὸ δέ: both express agent, but the second is not constructed with ὑπολύεται, as one might expect from the apparent parallelism.

#### 10-12 The epilogue

10 ἀπολυόμενος . . . δίκαιοι: the change from singular to plural is not uncommon (3.3.9, 5.10-11, etc.). For δίκαιοι . . . ἐσμεν, see 2.2.10n. (also in 3.2.11). ὑπὸ τε . . . ὑπὸ τε: cf. 2.1.9.<sup>1</sup> τῆς ἀληθείας τῶν πραχθέντων: 3.2.3n. τῶν ἐπιτηδευμάτων "our ordinary way of life," suggesting both the unexceptional nature of the youth's actions and the importance that well-off Athenians accorded to regular athletic training. οὗτος: the youth. πείσεται: πάσχω. μᾶλλον μὲν οὐδέν: the idea (rather too subtle for a real speech) is that although the father is obviously not to blame for anything, he is no more innocent than his son (who is thus completely innocent). ἐπὶ "because of" (*LSJ* s.v. B.III.1). διαφθοραῖ: "destruction" normally implies death (though the penalty would be exile); the exaggeration is probably intentional.

11 The antithetical pairs (father and son, conviction and acquittal, victim and defendant) become more symmetrical as the speech draws to a close, but the symmetry is broken by a touch of emotional coloring (καὶ ἀθλίου). ὁ . . . ἀποθανών: the boy. συμφέρειν in this sense ("bear with," *LSJ* s.v. A.I.4) is found primarily in tragedy (cf. *Xen. Cyr.* 4.3.13); A. seeks a tragic effect, while echoing συμφοραῖς.

12 εὐσέβειαν . . . δίκαιον . . . ὁσίως . . . δικαίως: the conjunction of religious and legal concerns is repeated for good measure.

## 3.3

1-4 *The prologue*

*After some ad hominem remarks the speaker laments his initial complacency, which led him to waste his first speech and effectively gave the defendant two speeches for his one, and warns against the danger that clever words can distort events.*

1 The plaintiff echoes the defendant's opening words (3.2.1). **καὶ λέγειν καὶ δρᾶν . . . ἔργῳ καὶ οὐ λόγῳ**: like the defendant (3.2.1) the plaintiff adds δρᾶν to λέγειν for balance, though neither does anything but speak; but the collocation suggests that words are a kind of action. The suggestion is emphatically reaffirmed in the claim that the defendant revealed his situation "in reality not in speech" (where the polar οὐ λόγῳ is added for emphasis). These phrases prepare for the speaker's remarks about words and deeds in 3.3.3; they also suggest a more complex interaction between λόγος and ἔργον that is given full expression only in Thucydides, whose complex manipulation of these terms is well elucidated by Parry (1981) (contrast Denniston 1952: 13, "[Thucydides] drags in the λόγος/ἔργον contrast in season and out").

2 **χρῶμενος**: 1.8n. **οὐκ ἂν ὑπέλαβον τοῦτον ἀντειπεῖν**: in Greek, as in English, "I would not have imagined he would respond" = "I imagined he would not respond." **ἀντὶ δυοῖν λέξας**: Maetzner's suggestion would give the same sense as Reiske's but is palaeographically more difficult, since ἡ λέξας is an unlikely gloss. The speaker makes much of the disparity, although the defendant's two speeches together are only about a third longer than his. **οὐκ ἂν προείχε . . . μου** "he would not have the advantage over me." **ἀπολογηθεῖς**: 2.3.1n.

3 **ἐν οἷς ἔπρασσε**: again, the deed is verbal (cf. 3.3.1n.). **τούτων**: the advantage he has in words; a genitive of comparison with **πολλαπλάσια**. **συχνῶς**: a rare adverbial form, probably meaning "completely" (with ἀποδέχεσθαι) rather than "often" (with δέϊται). **δράσας . . . παθὼν**: 3.2.8n. **δεινότερα τούτων**: i.e. the miseries he suffers by his son's being accused of killing himself are worse than those he suffered because of his son's death. **ἔργῳ καὶ οὐ λόγῳ**: 3.3.1. **εἰς τὸν ὑμέτερον ἔλεον καταπεφευγώς**: the defendant's words in 3.2.2. **διαγνώμονες** "judges," "discriminators," a very rare word; only here before the fifth century AD. **ἔργα φανερά** "where the facts are clear," a very loose accusative of respect. Some editors add a preposition

(παρά or πρὸς), perhaps correctly. Others delete ἔργα φανερά as unnecessary, but the words are important: the plaintiff reiterates his reliance on the evident facts (as stated in 3.1.1) in contrast to the defendant's overly subtle arguments (πονηρᾶς λόγων ἀκριβείας). The defendant's response is that although the facts may appear evident at first glance, *logoi* show that their interpretation is not so evident; see further 3.3.7 (οὐ γὰρ ἀφανὴς ἀλλὰ καὶ λίαν φανερός ἔμοιγε αὐτοῦ ὁ θάνατός ἐστιν), 3.4.2–3. There are many references to what is evident and not evident in Ant. 5 (5.23, 5.25, etc.). ἀκριβείας: 3.2.1n. τὴν ἀλήθειαν τῶν πραχθέντων: echoing the defendant (3.2.3n.).

4 ἡ μὲν . . . ἡ δέ: ἀκρίβεια . . . ἀλήθεια. For the “double comparative” see 2.2.13n. σύγκειται implies written composition (e.g. Thuc. 1.22 κτῆμα ἐς αἰεὶ . . . ξύγκειται) and suggests that subtlety is characteristic of written arguments. λεχθήσεται: future in reference to the argument that follows. ὑπερορῶ “overlook,” “disdain”; but the plaintiff responds to the defendant point for point. μὴ οὐ μόνον “lest I not only.” χρείας: 3.2.1n.; the Greeks took for granted that old age was miserable without the assistance of one's children. αὐθέντην generally means “killer,” but since it is used only of the boy in this Tetralogy, it is probably meant to suggest “suicide” (cf. 5.11, Gernet 1955: 29–38).

### 5–10 *The proofs*

*The main argument is that the youth cannot be entirely free of blame since he clearly had a role in the boy's death; even if the boy did make a mistake, the youth should be punished for his share of the act.*

5 εἰς τοῦτο . . . ἥκει: 2.1.1n.; the same expression in 4.3.6. τὸν μὲν . . . τὸν δέ: the second half of the antithesis is substantially longer than the first; this breaks the symmetry and raises the level of *pathos*. As Zuntz notes (1939: 126), “A subject regarded through the distorting medium of πάθος would not be adequately reproduced in a well balanced and symmetrical sentence”; cf. 3.2.11n. βαλόντα: 3.2.3n. λέγει: the postponement of λέγει is artificially long, matching the exaggerated summary of the defendant's arguments. ἐγὼ δέ . . . πιστότερος “I (would be) more convincing if I accused him of killing intentionally.” μήτε βαλεῖν prompted B to emend ἔβαλε μὲν in 3.2.3, but the plaintiff is not concerned with accurately representing the

defendant's argument, and in any case, μήτε indicates that the relative clause has a conditional force: "if he asserts that he didn't throw."

**6 παιδοτρίβου:** the "trainer" apparently supervised the javelin practice and, among other duties, arranged for the javelins to be picked up from time to time. Although some editors alter the MS text, it should be kept, since ὅς ὑπέδεχeto . . . ἀναιρεῖσθαι (lit. "who undertook to pick up") does not have to mean that the trainer picked up the javelins himself. The defendant later (3.4.4) mentions the possibility that this man should be blamed for the death, and we should recall that one of the possibilities Pericles and Protagoras discussed (introduction to 3, above) was that the organizers were responsible. A. does not, however, pursue this possibility, which would detract from the central issue of the boy's responsibility for his own death. **ἀκολασίαν:** cf. 3.2.3n. The plaintiff here responds directly to the defendant's arguments: e.g. οὐδὲν οὐδ' εἰς ἓν ἁμαρτῶν answers ἁμαρτῶν εἰς ἑαυτόν (3.2.8); οὐ τοῦ σκοποῦ τυχεῖν ἐκωλύθη answers <ὁ μὲν ἐκωλύθη> τοῦ σκοποῦ τυχεῖν (3.2.4); he also adds emotional coloring (πολεμίῳ, ἀθλίῳ, etc.). The point of οὐδ' εἰς ἓν seems to be that only errors that harm someone deserve punishment. **πλημμελήσας:** lit. "miss a note" in music; here it is virtually synonymous with ἁμαρτῶν. **μᾶλλον δὲ ἐκῶν:** i.e. it would be better to call it intentional homicide than to deny killing or throwing at all; again ἔβαλεν is ambivalent.

**7 ἀποκτείναντος . . . ἄρνουμένου:** many editors change these to the nominative to agree with the subject of φησὶν (sometimes changed to φασὶν); but although this produces a more regular text, the genitive absolute sometimes has the same subject as the main verb (S 2073, *MT* 850 give examples from Thucydides), and it is unlikely that a scribe would have produced these genitives had they not been in the original. **τοῦ νόμου:** 3.2.9n. **τίς ὁ βαλὼν; εἰς τίν' ὁ φόνος ἀνήκει:** the slight changes are accepted by most editors; DC suggests ἄν ἀνήκοι, perhaps correctly. **παιδαγωγούς:** boys from wealthy families were commonly accompanied by a (slave) attendant during all their daily activities. **ἀκουσίοις κακοῖς:** 2.2.3n. **δίκαιος:** 2.2.10n.

**8 τὴν ἀτυχίαν τῆς ἁμαρτίας:** speakers sometimes try to shift the blame for an action onto τύχη (e.g. 6.15), and one might think that this would be an easier line of argument for the defendant in this case; but at this time a person would still be seen as to some extent responsible for acts of τύχη in which he was involved (cf. Oedipus, the "child of τύχη").

Later, Aristotle will distinguish (*Rhet.* 1.13.16, 1374b6–8) between ἀτυχήματα and ἀμαρτήματα (neither of which involve wickedness) and ἀδικήματα (which do). μηδεμιᾶς is probably a scribal conjecture, but it might possibly represent an ancient variant and in any case produces a plausible text. κηλὶς “stain,” used metaphorically of defilement (e.g. *Soph. OT* 1384). The speaker suggests that the youth might have committed some other crime for which he is being punished. G compares the story of Adrastus (*Herod.* 1.34 45). γίγνεσθαι: with διακωλύειν (“to prevent from happening”), though it could easily be omitted or a “redundant” μή could be added (cf. 5.82).

9 ἔλεξαν . . . φάσκων: in 3.2.10 (for the change in number see 3.2.10n.). ἀποθανών: 1.21n. γενόμενος: conditional (“if he is”); so too μὴ τυχῶν (“if I do not obtain”), as indicated by μή. πείσομαι: 3.2.10n. ἅ = τούτων ἅ (with μὴ τυχῶν).

10 ὥς . . . δηλώσω: 2.2.9n. ἀμφοτέρα . . . ἀμφοῖν: the error and the homicide . . . the boy and the youth. The argument that both participants are responsible for the *hamartia* and the killing is a fall-back position in case arguments for the boy’s complete innocence are rejected. The plaintiff seeks to raise the standard to necessary cause (an act without which something would not have happened) rather than negligence. The defendant’s hypothetical antithesis (3.2.4) is turned around: instead of “if the youth’s throw had gone astray, he would be guilty, but it didn’t and so he is innocent” we have “if the youth had not thrown at all, he would be innocent, but he did and so he is guilty.” This echoes the defendant’s argument that if the boy had not run out, he would be innocent (3.2.5). The dilemma, as A. makes clear, is that the youth’s behavior lies in the area between obvious guilt and obvious innocence. καθάρων: 2.2.4n. συλλήπτωρ “accomplice,” a tragic word sometimes used of a quasi-divine spirit who assists a human in a crime (*Aesch. Ag.* 1507, *Eur. Or.* 1230). τῆς ἀμαρτίας: with συλλήπτωρ καὶ κοινωνός, a difficult *hyperbaton*; cf. *Introd* 8 v 3.

### 11–12 The epilogue

11 δικαίως . . . ὁσίως: 2.2.12n on φιλοθύτην. αὐθένται: 3.3.4n. θανατώσαντες “put to death,” “execute”; always used of killing that is in some sense officially authorized. εἰργόμενοι τῶν προσηκόντων: i.e. banished from the places specified in the law (3.1.2n.).

εὐσεβοῖντ': the passive of εὐσεβεῖν is very rare and the active is not used in prose with a human object (KG I 294). Here it must mean "would (not) be treated in a way pleasing to the gods." The text may be corrupt, as M argues. ὑπὸ τῶν ἀπολυσάντων "by those who have [i.e. by the jurors if they have] acquitted." ὑπὲρ πάντων: i.e. everyone else's pollution will be passed on to the jurors (cf. 2.3.9-11); for κηλὶς see 3.3.8n. τούτων: with εὐλάβεια: "caution in these matters." καθαροί: 2.2.4n. καθίστασθε: 1.1n.

12 ἀπάγοντες "take him off," as if to his execution, though of course the punishment was exile. μιᾶρις: 2.3.1n. κατορωρύγεθα echoes the defendant's lament in 3.2.10. δόξη γοῦν "at least in our minds."

### 3.4

#### 1-2 The prologue

*The prologue introduces some very interesting reflections on rhetoric and truth that are probably too impartial to be expressed in a real case; this suggests that A. may be expressing his own views on the subject. Here it is argued that although each litigant naturally thinks justice is on his side, the juror's task is to consider the facts (τὰ πραχθέντα); these, however, can only be determined from the litigants' speeches (ἐκ τῶν λεγομένων), and since the jurors will find the truth in λόγοι, they must not be prejudiced against subtle and precise arguments, which are sometimes necessary. This argument assumes that trials are essentially contests of λόγοι (Introd. 7) in which "the facts" are never evident, despite frequent assurances to the contrary. Cf. 6.18-19, where a similar view is suggested but then rejected as irrelevant, since the case is so clear; and also Gorgias' words in a case where, by contrast with Ant. 3, the facts are very much in dispute: εἰ μὲν οὖν ἦν διὰ τῶν λόγων τὴν ἀλήθειαν τῶν ἔργων καθάραν ("clear") τε γενέσθαι τοῖς ἀκούουσι καὶ φανεράν, εὐπορος ἂν εἴη κρίσις ἤδη ἀπὸ τῶν εἰρημένων. ἐπειδὴ δὲ οὐχ οὕτως ἔχει, κτλ. (Pal. 35).*

1 εἰκὸς . . . εἰκότως: "likelihood" here suggests the natural inclination of people; the word does not otherwise occur in Ant. 3, since εἰκός-arguments normally relate to factual disputes and are thus not relevant here. ὡμᾶς δὲ . . . ὡμᾶς δέ: *anacolouthon* (syntactical inconsistency); the repetition is occasioned by the long participial phrase that intervenes (some editors posit a lacuna). κατ' εὐνοίαν "in a favorable

way,” i.e. in a way favorable to himself; such a frank admission of bias would be unlikely in a real case. ἴσως “with equal favor for both sides.” In contrast to the litigants’ biases, the jurors must be impartial. There would be little point here in asking them to judge “piously” (MS ὁσίως), or even “conscientiously” (M, Mor) a meaning for which there is no parallel.

2 αὐτῶν = τῶν πραχθέντων, with ἀλήθεια (*hyperbaton*, 1.3n.); cf. 3.2.3. τὰ ὀρθῶς εἰρημένα: ὀρθοέπεια (“correct expression”) in matters of grammar, vocabulary and argumentation was an important concern of Protagoras and other sophists (see e.g. Kerferd 1981: 68–77); cf. τὸν ὀρθότατον λόγον that Pericles and Protagoras were seeking (see introductory remarks, above). προσδιαβάλλειν ἄδικα εἶναι: the words have often been questioned but no good alternative has been proposed. εἶναι seems to be a kind of infinitive of result (S 2011): “I agree that whatever I have said correctly can also be discredited so as to be deemed unjust.” In a real case the speaker would be very unlikely to agree that one false argument should discredit the rest of his case. λεπτά “fine,” “subtle,” only here in A., but, like ἀκρίβεια, a significant term of fifth-century literary discussion (3.2.1n. on ἀκρίβειαν). αὐτῶν: the speaker’s arguments, whose subtlety gives rise to hostility.

### 3–8 The proofs

*The proofs mainly emphasize and clarify points made in the defendant’s first speech.*

3 οὐκ ἐὰν κτλ.: cf. 2.2.10, where a similar thought is expressed. ἐκ τῶν πραχθέντων: the killer (i.e. which one is the killer) can only be made clear “from the facts.” On the other hand, the truth (of the facts) is only known ἐκ τῶν λεγομένων (3.4.2), though the facts also impose limits on the litigants’ λόγοι (3.2.4n.). In all this A. (like Thucydides after him) seem to be probing for an understanding of the complex relationship between facts and words (3.4.2n.).

4 σχετλιάζει “he complains” (in 3.3.4). κακῶς ἀκούειν “is being slandered.” αὐθέντης: 3.3.4n. ταύτης: with διαδρομῆς (*hyperbaton*, 1.3n.); αἰτίας is predicative with γενομένης (“since this running-across was the cause”). The defendant tries to focus on a different link in the causal chain, the running-across rather than the throwing of the javelin; the question then becomes, who caused the running-across? τοῦ παιδοτρίβου: 3.3.6n. ἀποκτείνας . . . εἴη: 2.3.8n. ὕφ’

ἐαυτοῦ πεισθείς conveys the impression that the boy is two people, killer and victim, one of whom persuades the other to run.

**5** ὁποτέρου: the crucial issue is still “whose deed is it?” (i.e. who is responsible for it?); cf. 3.2.8 τὸ ἔργον οὐχ ἡμέτερον ἀλλὰ τοῦ ἐξαμαρτόντος ἐστί. τὸ μὲν μειράκιον κτλ.: M calls this “a highly artificial piece of sophistry,” but the same argument would be made today if (for example) a child ran across a row of cars all traveling at the same speed; if one car strikes the child, the fact that its driver did nothing different from the other drivers, though perhaps not the only factor, would certainly be significant. ἐστί . . . ἀμαρτόν: 2.3.8n. on ἀποκτείνας . . . εἶη. σκοποῦ: 3.2.4n. παρὰ τὴν αὐτοῦ ἀμαρτίαν “by his own error” (LSJ s.v. παρὰ C.III.7). ἀφείς (in contrast to βαλὼν) draws attention to the “release” or “discharge” of the javelin, implying that the youth’s responsibility ends at that point. οὐδὲν ἂν ἤμαρτε: intentionally ambiguous between “would not have missed (his target)” and “would not have made a mistake.” μηδενὸς . . . ὑπελθόντος: conditional, as is ἐστὼς (and ἐστῶτα in 3.4.6).

**6** ὥς . . . διδάξω: 2.2.9n. συμπράκτορες . . . τῆς αἰτίας “sharers in responsibility.” εἶσαν: 2.1.10n. οὐ . . . οὐκ: each negative has separate force (S 2760).

**7** ἀφυλαξία “failure to take proper precautions” (i.e. “negligence”), a very rare word perhaps coined by A.; it differs from ἀκολασία (3.2.3, 3.3.6), which refers to a more instinctual lack of control over one’s actions. ἀφυλαξία is not an additional fault of the boy, as the defendant implies, but a specification of the nature of his ἀμαρτία. μηδένα μὴ βαλεῖν “that no one hit him”; the syntax is very unusual and most editors (except DC, Maetzner) read μὴ βληθῆναι or μὴ διαδραμεῖν. But A. frequently looks for clever variations in syntax (μηδένα in the preceding sentence is the object of βαλεῖν, here it is the subject, with a “redundant” μή), even at the cost of extreme awkwardness.

**8** τὸν . . . νόμον ὃν παραφέρουσιν: 3.2.9n., 3.3.7; in fact, the defendant was the first to introduce this “law.” ἀκουσίῳ παθήμασι: 2.2.3n.

### 9-10 *The epilogue*

**9** ἐνθύμιον ὑπολείψετε “you will leave behind [or cause to be left behind] a spirit of vengeance for yourselves.” The vague warning is



clarified in the next sentence: if convicted, the youth (like someone wrongly condemned to death) will leave a spirit that will weigh on the jurors' consciences. Only here do we find the idea (surely an exaggeration) that someone sentenced to exile will leave an avenging spirit. **αὐτός** intensifies **ὁ μὲν**. **προστρόπαιον**: 2.3.10n. **διαφθορῆς**: suggests death, though the penalty is only exile. **μεῖζον**: i.e. greater than the burden they now feel from the dead boy's spirit. **αὐθέντης**: 3.3.4n. **αὐτῶι**: a loose dative of interest with **αἵτιοι**, referring to the boy (or his father): "we are not the ones *for him* to blame." **ἡ πράξις τῶν ἔργων**: lit. "the accomplishing of the actions," i.e. the way things happened.

**10 ὁρθῶς**: 3.4.2n. **ὁ νόμος**: vague; either the law referred to in 3.4.8 or simply the law in general. **ἀτυχίαις**: cf. 3.3.8n. **γνώτε**: here "render a verdict," a meaning more often conveyed by **διαγιγνώσκω** (but cf. 5.8g, etc.).

#### 4. Third Tetralogy

*Background.* This case concerns a death resulting from a fight when both men had apparently been drinking, circumstances that were probably as common in Athens as they are today. It is the shortest but least focused of the Tetralogies, and lacks the concentrated effort the other two make to clarify a single issue. Along with a less concentrated argument, there is more rhetorical embellishment in this Tetralogy.

In the arguments questions are raised about the two parties' intentions (giving rise to **εἰκός**-arguments), and (as in the Second Tetralogy) about the victim's own responsibility for his death. In addition, a third possible agent is introduced, the doctor who attended to the victim before his death, even though under Athenian law a doctor could not normally be held responsible for the death of his patient; contrast the **παιδοτρίβης** in Ant. 3, whose possible role in the death is suggested but never taken seriously.

It is often said that this is a case of lawful homicide that would be tried at the Delphinion, and this would make a neat correspondence between the three Tetralogies and the three main types of cases, intentional homicide tried at the Areopagus, unintentional homicide at the Palladion, and lawful homicide at the Delphinion (*AP* 57.3, Dem. 23.65-75). But a person who killed in self-defense was not automatically

acquitted, except in specific circumstances, such as killing a "common criminal" (like a highway robber) who was attacking you. The fact that the victim started the fight could bolster someone's defense on a charge of intentional homicide but did not necessarily make the killing lawful; in this way killing in self-defense differed from, say, the killing of an adulterer caught in the act (see Lys. 1). Most likely the case was tried at the Areopagus. Demosthenes (21.73-5) mentions a similar case in which a man killed another man who had struck him first; the killer was acquitted by one vote; see further Gagarin (1978a).

*Arguments.* The plaintiff bases his argument on the traditional idea that someone who strikes a blow that kills is guilty of homicide. The defendant responds that since the victim struck the first blow (a point the plaintiff never explicitly denies), he was responsible for the fight and therefore for his own death; he only received what he deserved. Moreover, his death was the fault of the incompetent doctor who treated him. The plaintiff responds that the defendant's retaliation was excessive, that the severity of the blow indicates an intention to kill, and that if the victim's relatives had not summoned a doctor, they would be accused of lack of care. The defense then questions the severity and motivation of the blows on both sides.

Concerning pollution (Intro. 7) the prosecution argue that if they are prosecuting the wrong man, they will take upon themselves the pollution of the victim and of the defendant if he is unjustly prosecuted and convicted (4.1.3-4). The defendant replies that the jurors must acquit him or they will become polluted themselves (4.2.8-9; cf. 4.4.10).

*Assessment.* If one man killed another in a fight, he would probably be convicted of homicide unless it was clear that the victim himself was responsible for the fight and essentially compelled the killer to strike as he did. As in the Second Tetralogy, the plaintiff gives a relatively short first speech, implying that the defendant's guilt is self-evident; but although this defendant tries the same line of argument as the defendant in that work, the weakness of his case is apparent, and is confirmed by his leaving for exile before his second speech, which is delivered by friends. This early departure was probably followed by conviction in most cases (4.4.1n.); here A. surely means this as a sign to the reader that the defendant's case would probably not persuade the jurors.

Taken together with the Second Tetralogy, this work shows that the arguments used there to absolve the defendant of blame in a situation where he would traditionally have been held responsible are not necessarily applicable to other cases that may appear similar. The effectiveness of the defendant's arguments in that case lay in their precise applicability to a specific set of facts; here the facts are different and the defendant does not come close to matching the precision of the preceding defendant. In this way A. assures his readers that the subtle argumentation of the Second Tetralogy will not mean that no one can ever be held responsible for a crime (a conclusion that might more easily be drawn from Gorgias' *Helen*).

*Outline.* The plaintiff's first speech consists mostly of general observations, together with the simple assertion (4.1.6) that the defendant killed the victim and should therefore be punished. The defendant argues that since the victim started the fight, any retaliation was justified (4.2.2), and that since the fight led to his death, the victim is thus responsible for his own death (4.2.6); he also blames the incompetent doctor who cared for the victim (4.2.4) and introduces the same "law" prohibiting just and unjust homicide as in the preceding case (4.2.3), as well as the law making the planner equally liable with the actual killer (4.2.5). The plaintiff responds that an old man like the victim is unlikely to have started a fight (4.3.2), that the strength of the defendant's blows indicate an intention to kill (4.3.3-4), that they had to entrust the victim to a doctor or they would have been blamed for not doing so and in any case the law prevents the doctor from being held responsible (4.3.5). Finally, friends of the defendant (who has already left for exile) repeat many of his arguments (4.4.2-8) and urge the jurors not to convict unless the defendant's guilt is clear (4.4.9).

#### 4.1

##### 1-5 *The prologue*

*The prologue elaborates the connection between human and divine concerns, arguing that homicide is an offense against the gods and that a plaintiff who accuses the wrong person becomes polluted.*

1 Νενόμισται "it is established by *nomos*," here implying both law and

custom. **περὶ πλείστου τούς κρίνοντας ποιεῖσθαι**: the intervention of the subject between **περὶ πλείστου** and **ποιεῖσθαι** is very unusual (see 1.3n. on *hyperbaton*). **τούς κρίνοντας** would normally designate jurors (so G, DC, Mor), but the rest of the sentence suggests that here (and in 4.1.3) **τούς κρίνοντας** are the prosecution (so M); for **κρίνω** as “prosecute” see Dem. 18.15, etc. **ἐνόχους**: 1.11n. **εἰς ἀγῶνα καθιστάντας**: cf. 3.2.1n., 1.1n. on **καταστήναι**.

**2** There is no standard Greek myth of human creation, though Hesiod’s *Theogony* recounts the creation of women (men already exist). The sophists took great interest in the creation and early history of humans; Protagoras used the figures of Prometheus and his brother Epimetheus to construct a creation myth with implications for human nature and society (Plato, *Prot.* 320c–322d), and Democritus may have devised an account of early human society (Cole 1967). Here A. (perhaps for the first time) attributes the bounty of nature to the benevolence of god; cf. Aesch. *Prom.* 439–506 (where Prometheus claims credit for all the accomplishments of humans) and Eur. *Suppl.* 201–18. A. also alludes to a common sophistic theme in suggesting that *physis*, or human nature (cf. **ἔφυσεν**), provides a foundation for *nomos* (**ἀνόμως**, **νόμιμα**); see further Kerferd (1981) 111–30. **τροφέας τε**: the original MS reading (with **καί**) has led most editors to posit a lacuna or otherwise alter the text, but it reads well if we simply omit **καί**, which could easily have been inserted after **τε** by mistake. **τροφέας** is predicative but comes before the direct objects (cf. **τιμωρίαν . . . τὴν δυσμένειαν**, 4.1.3, etc.). **γῆν**: in Protagoras’ version humans discover for themselves **τὰς ἐκ γῆς τροφάς** (*Prot.* 322a). **τούτων**: with **ἀξιωθέντος**: “thought to be of such value.” **τὰ νόμιμα**: a broader term than **νόμος**, it “includes laws, customs, usages, practices and beliefs” (Ostwald 1969: 77).

**3** **εἰκότως** here includes the senses “likely” and “reasonably” (1.2n.); **εἰκός**-arguments (Introd. 5) have only a minor role in this Tetralogy. **θεοῦ τιμωρίαν**: predicative, “as god’s instrument of vengeance”; the victim’s avenging spirits are identified with divine vengeance, and those who wrongly prosecute or bear witness join with the killer in his sin (**συνασεβούντες**) and also become infected with pollution (Introd. 7). **τῶν ἀλιτηρίων** “avenging spirits”; the noun is very rare in this sense; in A. the word occurs only in this Tetralogy, always in the plural. **κρίνοντες**: 4.1.1n. **μαρτυροῦντες**: both sides apparently present witnesses, but since the Tetralogies are concerned with arguments

applicable to many different situations, they omit the actual testimony of witnesses, which would be case-specific.

4 There is an almost mathematical rigor to the rules of pollution: one who prosecutes an innocent man takes on the pollution of the unavenged victim and of the unjustly executed defendant, and also assumes the jurors' share, since he persuaded them to convict an innocent man (see introduction to 4, above). In the three parallel clauses a circumstantial participle (cf. 2.1.5n.) precedes the main verb. **προστροπαίους**: i.e. spirits of the dead seeking vengeance (2.3.10n.), not "the god to whom the murdered person turns for vengeance" (LSJ s.v. II). **ἐνοχοί**: 1.11n.; here with ἐπιτιμίαις ("penalties").

5 **τῶν ἐγκλημάτων**: of prosecuting an innocent man the hypothetical accusation just mentioned. **ὕμεις δὲ κτλ.**: a tripartite, rhetorically polished sentence; two circumstantial participles introduced by ἀξίως . . . ἀξίαν precede the main verb. **τοῦ πάθους**: with ἀξίαν.

## 6 The proofs

6 **συγγνώμης**: not a full pardon, but "leniency," "forgiveness"; cf. Dem. 21.43 on the contrasting treatment of intentional and unintentional homicide. **ὕβρει . . . ἀκολασίαι**: 3.2.3n. **παροινῶν**: drunkenness was not normally thought to make one's actions unintentional (e.g. Arist. *Nic. Ethics* 3.5, 1113b30-3). **ψυχῆς**: 2.4.5n. **ἐνοχος**: 4.1.4n. **τὰ νόμιμα**: 4.1.2n. We are told that anyone who wished could bring a case against someone who mistreated his parents (AP56.6; cf. Todd 1993: 107-8), but there was apparently no specific law against mistreating the elderly. **οὐδενὸς ἀμαρτεῖν, οἷς** "lack nothing of that (punishment) by which (such people are punished)." **κολάζονται . . . τιμωρεῖσθαι**: according to Aristotle (*Rhet.* 1.10.17, 1369b12-14) κόλασις ("punishment") serves the interest of the one who is punished, whereas τιμωρία ("revenge") serves the interest of the punisher; this distinction is not often observed by the orators.

## 7 The epilogue

*The epilogue is rather unusual in summarizing the plaintiff's case. Modern speakers often follow Plato's dictum (Phaedrus 267d) that one should end a speech by reminding the audience of its main points, but Greek orators rarely do this; the Greek*

*practice is justified by Gorgias' Palamedes, who tells the jurors that if they were inferior, he might need to remind them of what has been said, but he has no doubt that they, "the foremost among the foremost," will remember it (Pal. 37).*

7 ὁ . . . νόμος ὀρθῶς: cf. νενόμισται . . . ὀρθῶς (4.1.1). τῶν δὲ μαρτύρων ἀκηκόατε: this is the only Tetralogy where the testimony of free witnesses is important (cf. 4.1.3n., 4.4.3, 4.4.8), probably because when the question was "who started the fight?" witnesses could almost always be found on both sides. ὑμᾶς δὲ κτλ.: almost the same construction in 4.2.8. τῇ τε ἀνομίᾳ τοῦ παθήματος: G calls this use of an abstract expression ("lawlessness of the injury") for the concrete ("lawless injury") poetic; it is in keeping with A.'s fondness for abstract expressions (Intro. 8 ii 2). βουλευσάσαν suggests intent bordering on premeditation – a hint at the arguments to follow (4.2.5, etc.). The participle suggests that ψυχή is beginning to take on the sense "mind," "soul" (cf. 2.4.5n.).

## 4.2

### 1 The prologue

*The prologue summarizes the defendant's case: the victim (not I) started the fight, and he (not I) was drunk.*

1 "ΟΤΙ κτλ.: cf. 2.2.9. οὐ γὰρ ὥς μὴ κτλ.: the construction is very difficult; verbs of caution are normally constructed with μὴ or ὅπως μὴ (S 2220) and the subjunctive or (rarely) ὥς and the indicative (S 2235), but ὥς μὴ is unparalleled. It seems, moreover, that the second μὴ must be taken with δικαίως (litotes), leaving διαφθείρωσιν without a negative, perhaps because the first clause is negative (οὐ . . . κίνδυνος) whereas the second by implication (ἀλλά, sc. κίνδυνός ἐστι) is not: "the danger is not that they will suffer . . . but (the danger is) that they will ruin me unjustly." So DC, though others understand a further negative sense in the second clause ("that they will fail to ruin me unjustly"). δι' ἔχθραν: cf. 4.1.4. τοῖς μεγίστοις ἐγκλήμασιν: i.e. intentional homicide, suggesting perhaps that they ought to have been content to prosecute for unintentional homicide. αὐτῷ αἴτιος: 3.4.9n. μᾶλλον ἢ ἐγὼ seems to concede that the defendant is at least partly responsible. εἰκότως "reasonably" (4.1.3n.). ἀρχων . . . χειρῶν ἀδίκων: a quasi-technical expression for starting a fight, that has been restored with

reasonable certainty in Draco's law *IG* 1<sup>3</sup> 104. 33-4 : [ἄρχον]τα χειρῶν ἁ[δικῶν]; see Gagarin 1978a esp. 114-15. The point might be decisive, if it were clear that the victim struck the first blow and the defendant was acting solely in self-defense, but it is not.

## 2.6 The proofs

*The defendant produces several arguments in no particular order – see introduction to 4. above.*

2 δίκαια . . . ὅσια: 2.2.12n. σιδήρωι ἢ λίθωι ἢ ξύλῳι: the same triad of inanimate killers in Aeschines 3.244 and Dem. 23.76 (see 4.3.3n. . . οὐδ' οὕτως: for the omission of ἄν in a contrary-to-fact condition see 3.2.4n. οὐ γὰρ ταῦτά κτλ.: this sentence is repeated at the end of 4.2.3 for emphasis – and perhaps for lack of a better argument. μείζονα καὶ πλείονα: the Greeks often express the idea that equal or greater retaliation is justified – some examples in Dover 1974: 184'.

3 ἐρεῖ: the anticipation προκατάληψις of one's opponent's arguments is a common rhetorical strategy *Rhet. ad Alex.* 1439b2-12 : cf. Lys. 10.6, Dem. 20.151, etc. ὁ νόμος: 3.2.9n. The addition of ὁ γὰρ ἀνὴρ τέθνηκεν and the reply οὐκ ἀποκτεῖναι φημι<sup>1</sup> make it even clearer here that this *nomos* is nothing more than a prohibition against killing. As in the Second Tetralogy, the defendant is the first to mention this *nomos*: which would not appear to be of use to the plaintiff in either case. ἔνοχον: 4.1.4n. ὑπ' ἐμοῦ μὲν δικαίως δ' "by my doing, yes, but rightly so."

4 ἱατρῷ: for the provision granting doctors immunity from homicide prosecutions, see 4.3.5n. μοχθηρίαν: implies utter worthlessness, not an occasional mistake; cf. Aristotle's famous μὴ διὰ μοχθηρίαν of the "tragic hero" (*Poetics* 13, 1453a15). εἰ . . . θεραπεύσοιτο: the future optative represents an original future indicative: "if you are going to get (this kind of) treatment." ὑμᾶς: these "advisers" include the plaintiff. προσέβαλεν: cf. 3.2.4 τὴν αἰτίαν προσέβαλεν.

5 ἀπολύει δὲ κτλ.: for the language, cf. 3.2.9. ὁ νόμος: like the *nomos* in 4.2.3, this rule is introduced by the defendant, apparently in response to τὴν βουλευσασαν ψυχὴν (4.1.7). Like that *nomos*, this one against "planning" a homicide is probably not an actual law but the speaker's comment on the fact that Athenian law made the planner just

as responsible as the actual killer (*IG* 1<sup>3</sup> 104, 11 13; cf. Andoc. 1.94 τὸν βουλευσάντα ἐν τῷ αὐτῷ ἐνέχεσθαι καὶ τὸν τῇ χειρὶ ἐργασάμενον). Here the planner and the actual killer are the same, and so the term suggests premeditation in addition to intent (4.3.4n.). The argument is fallacious (*nomos* says that he who plans is a murderer; I did not plan; therefore I am not a murderer), but it allows the defendant to argue that he had less intent to kill than the victim. εἰ μή: one might expect the defendant to assert that only the victim premeditated his actions, but he seems content to argue for an equal probability of premeditation on either side. The main weight of his case thus rests on the argument of justified self-defense (τὰ αὐτὰ δρῶν ἅπερ ἔπασχον). τοῖς . . . αὐτοῖς "with the same means," i.e. with his fists.

6 μὴ τυπτόμενος: conditional ("if I was not being hit"). ἀτυχίαι: 3.3.8n. κέχρηται: 1.8n. ἀβουλίαι: only here in A.

### 7-9 *The epilogue*

*The epilogue contains several commonplaces; in accusing the plaintiff of trying to kill him, the defendant recalls the beginning of the plaintiff's first speech.*

7 ἐθέλω . . . ἀποδείξαι: the extreme *hyperbaton* (1.3n.) is characteristic of the unnatural style of this (and other) epilogues; cf. the delayed (and unnecessary) βούλεσθαι in 4.2.8 which unexpectedly modifies the syntax of the sentence. φόνον ἐπιβουλεύοντες "plotting to murder me." Most editors change the participle to ἐπικαλοῦντες to avoid the repetition of ἐπιβουλεύοντες, but A. does not always try to avoid repetition (e.g. φονεῖς . . . φονεῖς below; cf. *Introd.* 8 vi 1). ὃν ὁ θεὸς παρέδωκε: cf. 4.1.2. φονεῖς: 1.2n. ἀποκτεῖναι ὑμᾶς με πείθοντες: the interlocking word order is confusing perhaps intentionally so. φονεῖς εἰσι: the metaphor ("murderers of your righteousness") is striking.

8 τούτοις: the plaintiff and his associates. τὸ ὑμέτερον "your own interest." καταλαβεῖν: 2.2.9n. βούλεσθαι: 4.2.7n. τὸ μὴ ὀρθῶς ὑμᾶς διδασχθῆναι "your not being correctly instructed," sc. by the plaintiff. With τοῦ μὴ διδάξαντος that follows we must understand ὀρθῶς, but there is no need to add it to the text or to delete μὴ. καταστήσω: the idea that the defendant can direct the dead man's revenge is novel.



## 4.3

1 *The prologue*

1 ὅμοια . . . λέγειν: for the collocation of words and deeds cf. 3.3.1n. συγγιγνώσκω “I understand,” implying sympathy and pardon. ἀκριβειαν: 3.2.1n. ἐκβάλλεσθαι: for the sense of “rejecting” an argument, cf. Plato, *Rep.* 377c: the stories of the poets must be rejected ἐκβλητέον . ἐξ ὧν “as a result of which” a vague expression blurring the finer details of the argument about causation. ζῶν τε καὶ βλέπων: cf. Aesch. *Ag.* 677 with Fraenkel’s note . For the complex word order here and in the next sentence, cf. 4.2.7n. τἄλλα . . . τούτοις “the other points argued in his defense are nearly the same as these.”

2 5 *The proofs*

*The plaintiff refutes several of the defendant’s arguments in no particular order.*

2 εἶπε is regularly followed by ὥς for an indirect statement and by an infinitive to indicate a command (S 1997); thus καταλαμβάνεσθαι = “(he said that) he should be convicted.” ἄρξαντα: 4.2.1n. εἰκότερον: eikos-arguments are of secondary importance in this Tetralogy. One cannot help thinking of the paradigmatic example attributed to Corax or Tisias about the strong man and the weak man (see *Introd.* 5). ἢ τε κτλ.: it is very unusual in A. to find more than two parallel expressions without variation, let alone six, as here; but the parallelism receives little reinforcement from verbal assonance (cf. *Introd.* 8 v 2). μεγαλοφροσύνη τοῦ γένους: the expression is difficult but should be kept. γένος may designate the young as a “group,” in whom perhaps the natural tendency to high spirits is less tempered by training. Wilamowitz (in a note in the margin of his text) refers to Eur. *Andr.* 728 (= 727), where the expression πρεσβυτῶν γένος occurs. The idea of social class is not strictly relevant here, though according to the stereotype, drunken young men in Athens were generally upper class, who had the leisure for drinking (compare the stereotype of American college fraternities), and the point is thus not inappropriate in an eikós-argument. DC emends to μένους (Gomperz), but this is not much easier. τῷ θυμῷ χαρίζεσθαι: the same expression occurs in a sophistic fragment of A. (58 DK); cf. Soph. *El.* 331. φοβοῦσα: transitive (“causing fear”).

3 αὐτὸ τὸ ἔργον: i.e. the result of the fight; cf. 2.1.5 αὐτὸς ὁ θάνατος. ὦν ἡμύνετο “of that with which he defended himself,” i.e. of his fists (ὦν = τούτων ᾗ). σιδήρῳ: cf. 4.2.2. οἰκειότεραι “more a part of him (τούτῳ).” DC suggests this may refer to a primitive concept whereby a weapon used in a killing takes some of the responsibility for the death, whereas someone who kills with his hands has all the responsibility. Demosthenes reports (23.76) that the court of the Prytaneion heard cases “if a stone or a piece of wood or iron or some such thing falls and hits someone and the thrower is unknown but one has the actual object that did the killing,” which may reflect older ways of thinking, but before the sophistic period there is no suggestion that blaming a weapon would lessen the responsibility of the killer, if he was known; cf. the discussion of a javelin’s possible responsibility (Plut. *Per.* 36.3, introduction to 3, above).

4 answers 4.2.6; the plaintiff seeks to tie intention closely to result. ὁ . . . μὴ διαφθείρας: it is better to take μὴ to indicate a generalizing participle (S 2728): “someone who does not kill” than a conditional (“even if he does not kill”); in the next sentence μὴ ἀποκτείνας must be generalizing. βουλευτὴν: 4.2.5n. ἐκ γὰρ ὦν: 4.3.1n. ἀτυχία “bad luck” (3.3.8n.) in contrast to συμφορά (“misfortune”). ἁμαρτίαι: 3.3.8n. χρῆσάμενος “experiencing” (1.8n.). ὅν οὐκ ἤθελεν ἀπέκτεινεν: although this may suggest to us a charge of unintentional homicide (or at least second-degree murder), in Athenian law intentional homicide included killing with intent to harm, not just with intent to kill.

5 [οὐχ]: G and DC keep the MS reading but in 4.2.4 the defendant does accuse the plaintiff in nearly the same words (δι’ ὑμᾶς τοὺς συμβούλους διαφθαρείς) that are used here (*pace* Maetzner who argues for a significant difference between διὰ and ὑπό); moreover, the argument that follows – if they had not entrusted the victim to a doctor, they would have been accused of neglect – answers the accusation of killing the man by entrusting him to a bad doctor and makes little sense if the accusation was not made (see M, 134 5n.). ἀθεραπείας: a ᾗ. λεγ. ὁ γὰρ νόμος: the only other evidence for this law is Plato, *Laws* 865b (ιατρῶν δὲ περὶ πάντων, ἃν ὁ θεραπευόμενος ὑπ’ αὐτῶν ἀκόντων τελευτᾷ, καθαρὸς ἔστω κατὰ νόμον); it is generally agreed that this reflects the sense, though not the precise wording, of Athenian law. αὐτῷ . . . αὐτῷ: the doctor.

6 7 *The epilogue*

*The epilogue refutes the charge that the plaintiff are murderers, summarizes the preceding argument, and makes a perfunctory appeal to rid the city of pollution.*

6 εἰς τοῦτο . . . ἤκει: 2.1.1n. ἄρκουν . . . ἔστιν: 2.2.2n. τὸ τούτου μῖασμα ἐπεξερχόμεθα: a metaphorical extension of the usual sense of the verb (1.1n., cf. 2.1.2 ἐπεξερχόμενοι τὸν φόνον). ἀθέμιστα: LSJ call this the poetic form but it is fairly common in prose; ἀθέμιτα (1.22) occurs only in prose.

7 τοιαῦτα δεδρακότι “considering the sort of things he has done.” τὸν θάνατον φανερόν ἀποδεικνύντες “showing that (the circumstances of) the death are clear.” All editors since B add τε after τόν to make the construction parallel with what follows. πληγὴν and νόμον are also objects of ἀποδεικνύντες. ἀντὶ τοῦ ἀποθανόντος “in place of (i.e. on behalf of) the dead man.” ὑπέρ is more common in this sense; for ἀντί, see LSJ A.III.4. There is little to choose between this and the reading of A. ὑμῖν . . . ἀκεσασμένους: the variation in case is normal. τῷ τούτου φόνῳ “by this man’s death,” an unusual expression here, since φόνος often implies “murder.” τὸ μήνιμα τῶν ἀλιτηρίων: the same expression in 4.2.8.

## 4.4

1 *The prologue*

*The speaker explains briefly that the defendant has voluntarily left (for exile), as was allowed (Ant. 5.13, Dem. 23.69), leaving friends or relatives to speak for him; the jurors would still render their verdict. In this way A. probably indicates the weakness of the defendant’s case and illustrates possible arguments for those with similarly weak cases.*

1 ὑπαπέστη: the earliest occurrence of the very rare verb. εὐσεβέστερον: sc. ἐστί. τάδε: i.e. going into exile.

2–9 *The proofs*

*Most of the arguments expand on those already presented, but first the speaker presents a strong rebuttal to the εἰκός-argument of 4.3.2.*

2 περὶ τὸν ἄρξαντα . . . εἶναι “concerns him who started it,” a vague

way of saying, “concerns the question, which one started it.” οὐκ εἰκόσι τεκμηρίοις “unlikely arguments”; cf. the late fifth-century tragedian Agathon (fr. 5, quoted in Arist. *Rhet.* 2.24.10, 1402a10-1): “one might say that this too is likely: that things that are not likely often happen to mortals.” Here A. makes the important distinction between what is likely and what is necessary κατὰ φύσιν; cf. the distinction in A.’s sophistic fragment between natural functions like breathing through the mouth and the rules (*nomoi*) imposed on these functions, such as what the mouth can say (in Decleva Caizzi 1989: A.2.27-3.12 vs. B.2.30-3.18). αὐτὴ γάρ: many editors add ἂν after γάρ, but for its omission in a contrary-to-fact apodosis, see 3.2.4n.

3 τοῦ τεκμηρίου: the argument from εἰκός, which is the same for both sides. τούτῳ: with κοινοῦ. ἄρξαντος δὲ τούτου: the defendant surely exaggerates in claiming that this one factor would free him from all the blame. τῶν ἄλλων ἀπάντων κατηγορουμένων: genitive with αἰτίας. All modern editors follow Bekker in adding τῶν before the participle; as Maetzner explains (followed by KG 1 136), although the article can be omitted in such constructions with a noun (e.g. Dem. 15.30 τοῖς ἄλλοις ἅπασιν ἀνθρώποις) there are no other examples of this with a participle. We should resist emending, however, despite the paleographic ease, for A.’s practice in this regard may well be different (cf. 6.45 τοὺς νόμους ἅπαντας). εἰ τε: for single τε see 1.9n. τοῦ ἀποκτείναντος: the doctor (also in the next sentence). ἠνάγκασε: the defense argues for a necessary causal chain, like a series of billiard balls: if the blame is to be transferred from the final link (the doctor) to the preceding cause (the accused), then it should be moved to the earliest cause, the victim himself. ἀνόσια γάρ: all modern editors add ἂν, but see 1.25n., Introd. 8 iii 2. ἔσται: the future expresses strong feeling and suggests something undesired (S 2328); cf. Lys. 7.41 ἀθλιώτατος ἂν γενοίμην, εἰ φυγὰς ἀδίκως καταστήσομαι.

4 ἔστι . . . διώκοντος “nor did the accused plan (the death) any more than the accuser”; by “accuser” he means the victim, as the following sentence makes clear. ἔστι . . . ὁ ἐπιβουλεύσας = ἐπεβούλευσε (cf. 2.2.2n. ὃν ἀνατροπεὺς . . . ἐγένετο). ἥμαρτεν: the defendant can admit an error because the charge is intentional homicide (contrast the defendant in Ant. 3), but he immediately tries to transfer this error to his opponent. εἰς ἃ οὐκ ἠβούλετο “with an effect he did not intend” (Mor); so too in the next sentence ἀκουσίως must mean “not as he intended.”

**5** οἰκεῖον: 1.13n. ἀκολασίαν: 4.1.6, cf. 3.2.3n. καὶ τῆς ἑαυτοῦ καὶ τῆς ἐκείνου ἀμαρτίας (αἴτιος ὦν): there is no way to construe the genitive unless something is added to the text; other supplements are possible, but Maetzner's is the simplest. It is more likely that a scribal error caused the first three words to be omitted in *N* than that a scribe added them in *A*.

**6** ὥς . . . διδάξω: 2.2.9n. κρείσσόνως . . . ὑποδεεστέρω: DC retains the MS text (κρείσσων ὦν . . . ὑποδεέστερος), but this produces an impossible construction for ὦν, and so most editors accept Reiske's emendations. ἅ τ' ἔδρασε "with regard to his action," a kind of accusative of respect. *A*. characteristically varies the construction after the apparently parallel ἅ τ' ἐπασχεν. καὶ οὐκ ἔδρα is, strictly speaking, illogical after ἅ τ' ἔδρασε, but the sentiment is not unlike the current world-wide practice of masking a military attack as a defensive maneuver (and thus not really an attack at all).

**7** εἰ δὲ . . . κρείσσόνως: orators commonly include fall-back arguments in case the jurors do not accept their stronger claims. δίκαιος: 1.10n. πανταχοῦ: DC sees in this an allusion to a universal ἄγραφος νόμος, but the reference to a written penalty (γέγραπται) indicates that *A*. has in mind the written laws of all Greek cities. ἐπίκειται "are imposed"; ἐπικεῖμαι commonly functions as the passive of ἐπιτίθημι (4.1.5, etc.).

**8** τὸ μήτε δικαίως κτλ.: the plaintiff did not mention this "law" in either of his speeches, but the speaker keeps up the pretense (4.2.3n.) in order to reemphasize his argument about the doctor's role. μάρτυρες: 4.1.3n. ἄλλοτρίαι τύχῃ κέχρηται "has become involved in someone else's (mis)fortune" (cf. 3.2.8). προσαγόμενος "bringing upon himself."

**9** ὥς . . . ἀποδέδεικται: 2.2.9n. ἀπολύσιμον . . . καταλήψιμον "deserving of acquittal . . . conviction"; καταλήψιμον (cf. 2.2.9n.) is a ἅπ. λεγ.; ἀπολύσιμον occurs only here in classical Greek and very rarely in later authors. There is not, and probably never was, a definitive statement of the standard of proof needed for conviction in Athens, but speakers generally imply that jurors should vote for the stronger case (Intro. 4). ἐκ τῶν λεγομένων: 3.4.1-2n. δίκαιον . . . ἀνόσιον: sc. ἐστί. σαφῶς . . . φανερώς: "clear" proof is certain proof (1.6n., 2.4.6n.).

10–11 *The epilogue*

*The epilogue returns to the issue of pollution, not mentioned since the prologue to the plaintiff's first speech. The speaker draws on rhetorical commonplaces without regard to the facts of this particular case, in which the defendant is already in exile and thus would not be put to death or leave avenging spirits. Moreover, according to one of the defense's arguments, the one man who is guilty of the original homicide, namely the victim himself, has already been punished in full.*

**ΙΟ** ὁσιώτερον “more righteous” (sc. than the plaintiff's request). **ἀλιτήριος**: the MS reading is certainly corrupt; Th's emendation is difficult to explain paleographically but it gives the needed sense and nothing better has been suggested; several editors simply obelize. **τοῖς αἰτίοις**: vaguely indicating the jurors and probably the plaintiff too. **μίασμα**: several editors change to μήνιμα to accord with 4.2.8, but μίασμα can take a subjective genitive (“pollution brought by the avenging spirits”); cf. Soph. *OT* 1012 μίασμα τῶν φυτευσάντων.

**ΙΙ** ὑμέτερον “your duty”; cf. 4.2.8. **φῆναι** “to reveal” (φαίνω), with ἀποδόντες. **τοῖς ἐγγίστα** “the next of kin.”

## 5. On the murder of Herodes

*Background.* On the Murder of Herodes is A.'s longest surviving speech, and is generally considered his best, as it was in antiquity ([Plut.] *Moralia* 833d). The speaker is a young Mytilenean, who, according to a late source (Sopater in *Rhetores Graeci* 4.316 [Walz]), was named Euxitheus. He tells us he was traveling in the same boat as an Athenian, Herodes, from Mytilene to Thrace, when they were forced by a storm to put in at a small harbor on the north shore of Lesbos. There they waited out the storm drinking with people on another boat in the harbor. Sometime during the night H. disappeared and was never seen again; his body was never found. Eu. continued on to Thrace, but when he later returned to Mytilene, he was accused of murdering H. The case was brought to trial in Athens, which was closely linked by treaties with Mytilene. Although the charge was homicide, the prosecution arrested Eu. by a special procedure of ἀπαγωγή rather than the ordinary δίκη φόνου, a move he claims was unprecedented and illegal.

A significant factor in this case, where a Mytilenean is accused of killing an Athenian, must have been relations between the two cities. In

427 Mytilene, one of Athens' most powerful and important allies in the Peloponnesian War, had rebelled against Athenian dominance of their alliance (Thuc. 3.1–50). Athens quashed the revolt, executed its leaders, and sent Athenian cleruchs, or settlers, to divide up the territory. Each cleruch was given a piece of land, and the previous Mytilenean owner, who continued to farm the land, paid an annual rent. It is a reasonable guess that H. was one of these cleruchs. Eu.'s father had played a significant part in this revolt (5.74–80) and was living in voluntary exile in Thrace. We cannot date the present trial precisely, but it probably occurred about a decade after the revolt (c. 420–417), and the Athenian jurors would undoubtedly still have strong memories of the event.

*The case.* As in the First Tetralogy (and unlike any other surviving Attic speech), the basic question in this case is “who did it?”, and the speeches use several common arguments. The case against Eu. was based primarily on the testimony of his alleged accomplice, a slave who was interrogated under torture, confessed his accessory role in the crime, and was then put to death. The prosecution also introduce an incriminating note addressed to a certain Lycinus, who allegedly helped Eu. plan the crime; both men had had previous dealings with H. Eu.'s defense relies primarily on a narrative emphasizing that his presence on the same boat as H. was mere coincidence, on an alibi supported by a witness who testified that Eu. never left the boat on the night in question, and on two procedural irregularities: that the prosecution are using the wrong procedure (5.8–19, 85–96) and that they interrogated the slave under torture in violation of the normal rules (5.29–51). He also argues that he had no motive for the murder, he defends the role his father played in the revolt, and he notes the absence of any signs of religious pollution.

A.'s basic strategy is twofold, to raise substantial procedural objections and to emphasize how much of the prosecution's case is speculation as opposed to clear fact. Both arguments lead to the conclusion that the prosecution do not know who killed H. and have concocted this case against Eu. primarily for their own profit. Thus before saying anything about the actual events Eu. objects at length to the treatment he has received. Then in his narrative he carefully (and misleadingly) distinguishes between facts (τὰ γινόμενα), which are supposedly confirmed by the testimony of witnesses, and arguments from likelihood (τὰ

εἰκότα), which lead to no certain conclusions but raise questions, procedural and substantive, about the slave's testimony and the note to Lycinus. Throughout he stresses the separation of what is clearly established (φανερὸς) and what is unclear (ἄφανής) or has disappeared (H.'s corpse and the tortured slave). These arguments occupy the first half of the speech; the remainder adds supplementary arguments which keep returning to these main points.

*The prosecution's case.* Among those questioned after H.'s disappearance was a slave who initially denied any involvement but under torture apparently provided a full account of the crime and his role in it. According to Eu. the slave recanted before being put to death, but the prosecution nonetheless produced a detailed narrative of the crime based on his account: during a night of heavy drinking, Eu. left the boat with or after H. and killed him on shore, hitting him with a large rock; with the slave's help he put the corpse in a small boat and dumped it in the sea. To confirm this account the prosecution must have furnished witnesses who were present at the slave's interrogation. They also recounted past dealings among H., Eu. and Lycinus and introduced the incriminating note, though they apparently did not present a single clear motive for the murder. They also recounted Eu.'s father's role in the revolt against Athens, and probably included both explicit and implicit reminders of past and present hostilities between the two cities, seeking to capitalize on the jurors' prejudices. They probably did not need to appeal openly to anti-Mytilenean sentiment, and the fact that Eu. largely avoids direct mention of current political feelings may suggest that this was one of his opponents' stronger points.

*The allegation of sycophancy.* In several places 5.10, 59–60, 80 Eu. accuses his prosecutors of bringing this case for their own enrichment. At this time many Athenians were growing concerned about the number of suits brought against rich men by so-called "sycophants" συκοφάνται, or litigants whose motive was personal enrichment. For most public crimes (treason, embezzlement, etc.) Athenian law allowed anyone who wished ὁ βουλόμενος to bring a case, on the theory that public officials would be watched by the citizens, and especially by their personal enemies, for any wrongdoing. In many cases the fines levied were shared between the successful prosecutor and the city. A person could



also profit by threatening a rich man with a lawsuit and then offering not to prosecute in return for money. The plays of Aristophanes portray several malicious sycophants, but one of them (*Plutus* 900-19) defends his activity as necessary and patriotic ("who else will watch out for lawbreakers?"). Several measures were enacted to combat the problem: a law was passed prohibiting sycophancy and prosecutors in many cases faced a penalty of 1,000 drachmas if they failed to secure one-fifth of the jurors' votes. Still, litigants continued to complain about sycophants and to ascribe this motive to their opponents; in some cases the complaint was undoubtedly valid but in others it was probably just an attempt to disparage the other side (see further Todd 1993: 92-4, Introd. 7).

*Assessment.* Although recent scholarship has tended to side with Eu. on the basis of his alibi (see especially Schindel 1979), Gagarin (1989a) (henceforth *MH*) presents the case for his guilt (both these works should be consulted for more detailed consideration of many issues discussed in the following notes). Whatever the truth, Eu.'s arguments are well constructed to hide the weaknesses in his case, and most scholars have found his speech persuasive. The most difficult factor to assess is the strength of anti-Mytilenean sentiment in Athens at the time and how effectively the prosecution may have played on it (see Heitsch 1984). Eu. is in a difficult position, wishing to refute charges that his father was a leader of the revolt while at the same time keeping the jurors' attention away from this issue. It is also difficult to assess Eu.'s accusation of sycophancy. It seems unlikely that a conviction would result in only a fine (which in any case might not be shared by the prosecution), and the case seems to have progressed too far for an out-of-court settlement; but there is much we do not know. For their part the prosecution would have been seriously hampered by the lack of a *corpus delicti* and the absence of a clear motive for the crime. The slave's testimony and the note to Lycinus are strong evidence, but neither is unassailable.

In short, without knowing either the true facts or the final verdict, we may speculate that this may have been one of those celebrated cases in which A. was accused of "selling for a high price speeches that run counter to justice, especially to those who are in the greatest danger of conviction" (Introd. 2).

*Outline.* Eu.'s arguments are broken up and reassembled in a complex fashion (see Due 1980: esp. 39–41): for example, he explicitly passes from the narrative of facts to εἰκός-arguments in 5.25, but other factual details are not provided until he later reaches the relevant point in his argument. After several εἰκός-arguments are presented in 5.25–8, Eu. turns to a new issue, the interrogation of witnesses, but he leaves this in 5.43 to return to more εἰκός-arguments, after which he returns to the matter of the interrogations. When he returns to issues, moreover, he often adds new arguments, sometimes even contradicting what he had said earlier. The effect is to reinforce his points with repetition but also to give an impression of their cumulative weight; and the separation of different treatments of the same issues makes any inconsistencies less noticeable.

The prologue (1–7) is followed by arguments about the proper procedure for prosecution (8–19). Then comes the narrative, which includes some argument (20–4), εἰκός-arguments (25–8), the interrogation and testimony of the prosecution's witnesses (29–42), more εἰκός-arguments (43–45), further discussion of the interrogation of the witnesses (46–52), and briefer discussions of the note to Lycinus (53–6) alleged motives (57–63), the need for certain proof (64–73), Eu.'s father and the Mytilenean revolt (74–80), and signs from heaven (81–4). The epilogue (85–96) is devoted largely to the procedural issue discussed in 8–19.

### 1–7 *The prologue*

*The prologue is typically full of commonplaces, beginning with the plea of inexperience (1.1n.); the style is embellished by many rhetorical features, such as antithesis and pleonasm.*

1 Ἐβουλόμην: used here without ἄν to express a contrary-to-fact wish (S 1782, MT 425, KG 1.205–6), though the orators more commonly include the ἄν (Wyse 1904: 653 gives examples of both). μέν: 1.1n. τοῦ λέγειν . . . τῶν πραγμάτων: for variation in a parallel construction see Introd. 8 v 3; in comparison with the Tetralogies, variation in A.'s court speeches is relatively mild (contrast e.g. 2.3.11) so as not to impede aural comprehension. For the word/deed antithesis see 3.3.1n.; the contrast is elaborated below (5.5). τῶν πραγμάτων is usually taken to

refer to legal affairs, but it probably designates "affairs" in general and is used primarily for rhetorical balance. **καθεστάναι:** 1.1n. **τῇ τε συμφορᾷ καὶ τοῖς κακοῖς:** *pleonasm* (1.20n.). **τοῦ μὲν . . . τοῦ δέ:** *συμφορᾷ* and *κακοῖς* . . . *λέγειν* and *πραγμάτων*, though the emphasis in the latter pair is on speaking ability. The sentence is carefully balanced with *pariosis* and *homoioleuton* in the final participles (Introd. 8 v 2).

**2 οὗ** "when," an extension of the normal "where." **κακοπαθεῖν:** Introd. 8 ii 4. **μετά** "in accordance with." The "improper accusation" refers to the prosecution's use of *ἀπαγωγή* (5.8 19n.), which caused Eu. to be imprisoned when he reached Attica. **εἰπόντα τὰ γενόμενα:** a statement of the facts should require no special rhetorical ability, but the pretense of inability effectively prepares for the argument that the facts support Eu. **ἀδυνασία:** although both MSS give *ἀδυναμία*, a late lexicon (*Synagoge Lexicon Chresimon*, in Bekker 1814: 345) tells us that A. and Thucydides (7.8, 8.8) used this earlier form (also found in Herodotus).

**3** The contrast between unpersuasive truths and a persuasive lie is presented in a precisely parallel construction until the variation at the end of the sentence (*διότι ἐψεύσαντο*). For the sentiment cf. Eur. fr. 56 N; Gorgias, *Helen* 13. **αὐτοῖς τοῦτοις:** 1.2n. **δηλῶσαι:** A. understands the need for clarity in spoken oratory, and it is primarily in the Tetralogies, which were probably intended for reading, that he pushes stylistic effects to the point of obscurity; cf. *σαφῶς εἰδέναι*, 1.6n. **ἀγωνίζεσθαι:** the verb can designate any sort of contest, but in A. it always refers to a legal contest (1.2n.; cf. 5.74n.). **ἐπὶ τοῖς . . . λόγοις εἶναι** "have regard for the words"; the sense is probably that a poor speaker must address himself to the opponent's words, not that his case is "dependent on" the opponent's speech. Eu. would probably have to respond to the prosecution's account of the murder in any case, but he pretends that if he were a better speaker, he could simply discuss the facts. **τῇ ἀληθείᾳ τῶν πραγμάτων:** 2.4.1n., 3.2.3n.

**4 οὐχ ἅπερ οἱ πολλοί:** the rejection or reversal of a commonplace becomes a rhetorical device in itself; cf. Lys. 12.1 "my problem is not where to begin but where to end." Flattery of the jurors is another common practice. **ὑπάρχειν** "exists," as elsewhere in A.; it usually is followed by a dative of possession (S 1476). **οὕπερ:** neuter, agreeing with the idea of a fair hearing rather than with *ἀκρόασιν* itself (S 2502d).

**5** A. continues to stress the importance of *ἔργον* as opposed to *λόγος*.

There is a concentration of hiatus in this section, which would slow down the delivery and add emphasis to the ideas (Pearson 1978: 136-8). τοῦτο μὲν . . . τοῦτο δέ: adverbial (1.11.). εἰάν τι τῇ γλώσσει ἀμάρτω: this continues the idea in 5.3 but may perhaps also allude to the speaker's being from Mytilene, where the Lesbian dialect was spoken. ὀρθῶς: cf. 3.4.2n., where the sentiment is quite different. δεινότητι: A. himself was accused of δεινότης (Introd. 2). οὐ γὰρ δίκαιον κτλ.: a similar thought is expressed in Eur. *Hec.* 1187-94. γλώσσης . . . γνώμης: the effect is Gorgianic.

6 ἀνάγκη: defendants often lament the force of necessity (e.g. 2.2.4, 3.2.1-2) but the threefold repetition of ἀνάγκη in this section is unusual. For the idea that someone at risk is at a disadvantage in speaking, see Eur. fr. 67 N. τύχη . . . προνοίαι: although "chance" is mentioned at the beginning of A.'s other court speeches (1.2, 6.1), it has a special point in Eu.'s argument that τύχη not πρόνοια shaped the facts of this case. ἐκπληξιν πολλήν παρέχειν: emphatic alliteration. For the periphrasis ἐκπληξιν παρέχειν (in place of ἐκπλήσσειν), see Introd. 8 iii 5; the same phrase is in Thuc. 4.55.

7 ὁρῶ γὰρ ἔγωγε: the observation seems to imply more experience of legal affairs than the speaker has thus far pretended to have. χεῖρον ἑαυτῶν "worse than themselves," i.e. worse than usual. μᾶλλον ὀρθουμένους: sc. ὁρῶ αὐτούς; the ellipsis is eased by the parallelism of the two clauses. αἰτησις: cf. αἰτήσομαι in 5.4. καὶ νομίμως καὶ ὁσίως: this pair appears only here in A.; in the Tetralogies he uses ὁσίως καὶ δικάως for the same idea (e.g. 3.2.12). ἐν τῷ ὑμετέρῳ δικάω "in accordance with your justice," an unusual expression perhaps suggested by the poetic use of ἐν δίκῃ for δικάως. περὶ . . . ἕκαστον: an unusually brief transition to the argument of the case.

### 8-19 *The preliminary argument (προκατασκευή)*

*Before beginning the narrative Eu. includes an argument (cf. 1.5-13n.) criticizing the prosecution's procedures; he returns to these criticisms in the epilogue (85-96).*

*Instead of the regular δίκη φόνου, the prosecution used a special procedure against Eu., ἀπαγωγή κακούργων (Introd. 4). This procedure for "summary arrest of malefactors" was directed primarily at common criminals, especially highwaymen and cloak-snatchers (2.1.4n.); it was not normally used for homicide, but the prosecution defended their use of it in a homicide case on the ground that*

"homicide is a great crime" (μέγα κακούργημα, 5.10). *Eu.* objects that by using this abnormal procedure the prosecution was violating certain special rules relating to homicide cases and had unjustly imprisoned him before the trial, which would have been illegal in a δίκη φόνου. He also alleges that if he is acquitted in this case the prosecution intends to bring another case against him by the normal procedure.

The fact that the prosecutor apparently felt the need to justify his use of this unusual procedure suggests that *Eu.*'s protest is valid, and that this was the first instance of an ἀπαγωγή used for homicide. It is irrelevant to ask whether use of this procedure was legal, since in Athenian law no separate decision would be made on the procedural argument, but this would be one factor influencing the jurors' verdict in court. The Eleven, officials whose duty it was to make the arrest in such cases, evidently accepted the prosecution's argument and allowed the case to proceed to trial; we do not know exactly how much authority the Eleven had in such matters, but in a similar case (*Lysias* 13) we are told they insisted on a change in the language of the complaint before they would accept it (see further Todd 1993: 79–81). Even if we knew the verdict in this case, we would not know how large a role, if any, this issue of procedure played in the jurors' votes.

The prosecution also justified their use of ἀπαγωγή because in a δίκη φόνου *Eu.* could legally leave Athens and go into exile (5.13), and this was probably their main reason for using the irregular procedure. Other reasons<sup>4</sup> may have been to have *Eu.* imprisoned before the trial (5.17–18), to make the penalty "assessable" (5.10n.), and to have the case tried by ordinary jurors, who might be more hostile to rich Mytileneans than the Areopagus (Heitsch 1984: passim emphasizes this aspect). However, the procedure does not seem suited to the alleged motive of personal enrichment (5.10n., 5.17n.; see further MH 17–29). *Eu.*'s tactic is to emphasize the greater procedural fairness of the δίκη φόνου, while avoiding any suggestion that he wishes to avoid the popular court for political reasons.

**8** The sentence is complex, with its parenthetical expression of confidence in the jurors, but the "ring-composition" technique of returning to the beginning (παρανομώτατα καὶ βιαϊότατα . . . βιαϊότης καὶ παρανομία – in chiasmic order) helps keep the thought clear. ὥς . . . διδάξω: 2.2.9n. καθέστηκε: 1.1n. οὐ τῷ φεύγειν ἂν . . . ἀλλ' ἵνα "not because I would avoid . . . but in order to." "The dative of cause sometimes approximates to a dative of purpose" (S 1519). The distinction between cause and purpose is sometimes blurred; for a full discussion see Schenkeveld (1989). For examples of the articular infinitive with ἂν see KG I 241. τὸ πλῆθος τὸ ὑμέτερον "you the people," with democratic political overtones (so too in 5.78, 5.80). The large

juries in the popular courts were a notable feature of Athenian democracy. ἐπεὶ . . . διαψηφίσασθαι “since I would entrust myself to your verdict in a capital case even if you were not under oath or subject to any law.” Those who would serve as jurors in the popular courts swore an oath at the beginning of each year to judge according to the law or, if there was no law on the subject, to use their best judgment (references in MacDowell 1978: 44 with notes). τῶν εἰς ἐμέ “their conduct toward me,” as distinct from their behavior in general. All modern editors delete the καί before this phrase, but see Pearson (1976) 17n.27.

9 ἐνδεδειγμένος: for ἐνδειξις (“denunciation”) before arrest by ἀπαγωγῇ, see Intro. 4, Hansen 1976). φόνου δίκην φεύγω “I am on trial for homicide”; the expression also suggests “I am a defendant in a δίκη φόνου” (which of course he is not). οὐδεὶς . . . τῶν ἐν τῇ γῇ ταύτῃ: some (G, M) see a deliberate ambiguity (“no one in Attica” or “no Athenian”) and argue that Eu. tries to conceal his Mytilenean citizenship; but he could hardly hope to do this, and he himself reminds the jurors of it in 5.17 (ξένων). ἐνοχος: 1.11n. οὗτοι: i.e. the prosecutors (1.4n.); for αὐτοὶ οὗτοι see 1.2n. λωποδυτῶν “footpads,” “cloak-snatchers” (2.1.4n.; for a full discussion see Hansen 1976). κεῖται: forms of κεῖμαι occur ten times in 5.8–19, always with reference to νόμος. Being equivalent to a passive of τίθημι (cf. 4.4.7n.), the regular term for “enacting” a law, κεῖμαι emphasizes that the prosecution are violating “established” legislation. προσόν “is relevant”; participle from πρόσειμι in indirect discourse with ἀπέδειξαν. ἀποψήφισιν: a rare noun, perhaps coined by A. (1.3n.). Only here does it mean “acquittal”; by the fourth century the sense is “disenfranchisement.”

10 φασὶ δέ: the prosecution probably made this argument to the Eleven when they presented their ἐνδειξις (5.9n.); Eu. appears to be quoting their argument directly; cf. λέγεις δέ (5.13). κακούργημα: for the nontechnical sense of κακούργημα see Aes. 3.94, Dem. 18.31, etc. ἱεροσυλεῖν . . . προδιδόναι τὴν πόλιν: these two crimes were covered by a single law (MacDowell 1978: 176–9). ἐμοὶ δέ “in my case.” By the late fifth century the Areopagus, the oldest Athenian court, tried only cases of homicide and certain religious matters. Its procedures were thus older and more solemn than those in the popular courts (Intro. 4). This speech is one of our main sources for the differences. οὗ τοῖς ἄλλοις εἶργεσθαι κτλ.: the public places from which an accused killer was banished by proclamation in a δίκη φόνου (3.1.2n.) included the agora,

where the popular courts met. The separation of τοῖς ἄλλοις ("in the case of others") from τοῖς . . . φεύγουσι is a relatively mild *hyperbaton* (1.3n.). **προαγορεύουσι**: for the initial proclamation see Introd. 4. **τίμησιν**: in some cases (the trial of Socrates is a well-known example) the penalty was not fixed by law but was decided after a guilty verdict by the jurors, who chose between the penalties proposed by each side. The penalty in a δίκη φόνου was fixed as death, with exile as a practical alternative. The penalty in an ἀπαγωγή κακούργων was normally death, and some scholars think Eu. is simply trying to confuse the jurors here; but it appears that an assessment was sometimes made in an ἐνδειξις/ἀπαγωγή (see *AP* 63.3, *Dem.* 21.182). Although it is unlikely that the prosecution could have proposed a fine from which they would benefit directly, they may have made the case assessable so that after a conviction they could negotiate with Eu. and propose a lesser penalty while collecting a substantial bribe from him. **ἀνταποθαινεῖν**: the verb occurs only here in classical Greek. Not all of A.'s neologisms (Introd. 8 ii 1) are *recherché* or arbitrary; some (as here) are clear, precise and apt. **τοῦ σφίσιν αὐτοῖς λυσιτελοῦντος**: the allegation of self-enrichment is repeated later (5.59, 78), but no further details are provided; see introduction to 5, above.

**11 ὑπαίθρῳ δικάζει**: trials at the Areopagus and the other homicide courts (Palladion, Delphinion, Prytaneum and Phreatto) were in the open air (*AP* 57.4); the popular courts in the agora were enclosed. The reasons for this difference may have been more historical than religious. **σὺ δέ**: the prosecution; for the change to the singular cf. 3.2.10n. The accusation of illegal behavior in 5.11 15 is underlined by the repetition of σύ (six times) and παρελθών (four times). **δέον σε διομόσασθαι**: Athenian law distinguished the very severe διομοσία sworn in homicide cases (but cf. 1.8n.) from the ἀντομοσία sworn in most other trials (for details see *Dem.* 23.67–8, *MacDowell* 1963: 90–3). **ἡ μὲν** "verily," echoes the formal language of an oath, though it is not clear whether the oath explicitly referred to the rule that litigants in homicide cases should stick to the point (Introd. 4). There was no means of enforcing this rule and it may have been often ignored; the defendant in *Ant.* 6 devotes much of his speech to matters not directly related to the alleged homicide. **ἡλίσκόμεν**: 2.1.5n. **οἱ εἶλεν**. **πολλὰ ἀγαθὰ εἰργασμένος**: a reference to the common practice of citing previous service to the city (2.2.12n.).

**12** ἄ refers loosely to all of 5.9-11. Technically this is an *anacolouthon* (syntactical inconsistency), but resuming a thought with a relative pronoun is quite common in Greek and the effect would hardly be noticed. **ἀνώμοτος**: this may be an exaggeration; litigants swore oaths in most trials, and despite the summary nature of the ἀπαγωγὴ procedure, oaths may well have been sworn when the case came to trial. It is uncertain whether witnesses in trials other than homicide swore oaths; see Bonner (1905) 76-9. **τῶν σφαγίων** "sacrificial victims"; we have no other evidence for this stage of the procedure. **ἀνωμότοις . . . τοῖς μαρτυροῦσι**: the mild *hyperbaton* gives a slightly elevated tone (1.3n.). **οὔς**: the witnesses.

**13** λέγεις δέ: the prosecution argued that exile would be less severe for a Mytilenean like Eu. than for an Athenian; thus the need for a special procedure that did not allow him this choice. **ὥσπερ εἰ δκοντα**: it is plausible that Eu. came to Athens willingly, expecting to be tried by a δίκη φόνου, which would allow him to leave later. Since conviction in a δίκη φόνου would probably have meant confiscation of his property in Mytilene as well as exile from Athens, Eu. had good reason to come to Athens and defend himself, but since his father's property in Thrace would probably not have been confiscated, exile would not be a great hardship. **προσκληθέντι**: a summons (πρόσκλησις) to appear in court was required in almost all legal cases (except in an ἀπαγωγή). **ἐρήμην**: 2.1.7n. **ὀφλεῖν τὴν δίκην**: lit. "owe the penalty"; i.e. "lose the case." **τοῦτο δ'**: adverbial. **τὴν προτέραν**: sc. ἀπολογίαν. The defendant in a δίκη φόνου could leave at any time before his second speech (4.4.1n.). **ιδίαι** "on your own" (LSJ s.v. VI.2.a). **θέμενος**: 5.9n. **ὅν κείται**.

**14-15** τοὺς γε . . . οὕτως: G brackets this entire passage, which is almost identical with 6.2, arguing that such praise of the laws is proper in a δίκη φόνου but not in this speech (cf. 5.87-9, which recur in 6.3-6); but since Eu.'s point is that the prosecution are violating the established laws, it is surely relevant to emphasize the special authority of these laws. A. is reported (fr. 70 Th) to have written a collection of prologues and epilogues, from which these passages may have been taken, but there is enough variation in the wording of both pairs to show that they were not simply inserted by a later scribe.

**14** ὑπάρχει (5.4n.) is redundant for emphasis. **ἀρχαιοτάτοις**: this is correct, at least according to tradition (Introd. 4). **τοὺς**



αὐτοὺς . . . τῶν αὐτῶν: this too is probably correct in the sense that the original text of Draco's law was still authoritative in the fifth century and was republished in 409/8 (Intro. 4); although the law had undoubtedly been amended, the main rules were probably unchanged (Gagarin 1981: 21-6).

**15 νομοθέτης:** the charge of assuming the duties of "lawgiver" is scornful, since at the time the term was used only of the legendary figures Draco and Solon. By making new laws the prosecution violate traditional laws (ταῦτα παρελθόν). **διομοσάμενος:** 5.11n.; the sense is conditional ("no one would have testified against me if he had sworn that oath").

**16 ἀναμφισβητήτως** "without room for dispute," "conclusive." A.'s point – that a verdict would not be conclusive since acquittal could be followed by another trial by δίκη φόνου – is rather contrived and not immediately clear; he returns to the point in the epilogue. Athenian law apparently prohibited double jeopardy (Dem. 20.147), but we do not have a text of the law and so we cannot rule out the possibility that the same issue could be tried by a different procedure. Litigants often reopen an ongoing dispute between parties by raising a new issue, but we have no examples where the same issue is tried twice. **καὶ λόγον:** pleonastic. **τοῖσδε τοῖς:** the MS reading cannot be right; τότε τοῖς (Denniston 1933: 216) is paleographically easy but gives a very difficult sense: "as if even then (before the trial) you were going to distrust the jurors." **πλέον** "advantage." **ἀποφυγόντι . . . ἔλῳν:** 2.1.5n. on εἶλεν. **ἀξιώσεις** "you will expect"; this implies that the punishment was not automatic but needed to be assessed (5.10n.). **ὠφληκότα:** from ὀφλισκάνω (5.13n.). **καίτοι κτλ.:** an effective summation (cf. 6.43, 6.47), the rhetorical question being completed by a carefully balanced antithesis. **κατείργασται:** perfect passive; ἃ βούλεσθε is the subject.

**17 ἐδέσθην:** from δέω = "bind"; i.e. "imprison." **ἐγγυητάς:** the use of sureties was common in Athens, to guarantee a debt that someone could not pay (e.g. Plato, *Ap.* 38b) or to ensure that a foreigner would not leave Athens; three was the usual number. We know of no other case where sureties are rejected out of hand, and it was probably a reasonable expectation that foreigners who wished to post sureties would be allowed to do so. However, the law probably did not require this, so that the prosecution's refusal, though perhaps unusual, was probably not

illegal. Their motive in wanting to keep him in prison is uncertain, since they probably stood to profit if he posted sureties and then left the city; the motives alleged in 5.18 may be correct (see *MH* 28–9). **πώποτε**

. . . **πώποτε**: repetition for emphasis. **οἱ ἐπιμεληταὶ τῶν κακούργων**: the Eleven, who were also in charge of prisons and must, therefore, have accepted the prosecution's refusal of sureties (cf. 5.8–19n.). **οὗτος**: sc. ὁ νόμος. **ὠφελῆσαι**: this is the simplest solution to the textual corruption, but it is only a guess and it does not explain how νόμου or κόσμου entered the text. There is no parallel for ἐπιλείπω followed by an infinitive (with μή) meaning “fail to.”

**18 αὐτόν**: emphatic; “myself,” “in person.” **τούς τε . . . ὄνειδος τε**: two examples of single τε (1.9n.); the third τε is paired with the following καί. **φίλους κτλ.**: M explains the reasoning as “rats will leave a sinking ship,” but several of Eu.'s friends do, in fact, testify for him on many points. But he may have had difficulty enlisting witnesses for his side while in prison. **διὰ τὴν . . . κακοπάθειαν**: several scholars (G, Mor) delete these words as a gloss (G also deletes the preceding λέγειν), but such repetition is common in A. (Introd. 8 vi 1).

**19 ἐλασσωθείς** implies both “being at a disadvantage with respect to” and “suffering a loss from.” (This word was corrupted in the MSS to ἔλος σωθείς; the first word later became ἔλος, whence ancient scholars deduced that the speaker's name was Helos.) **καθέστηκε εἰς**: 1.1n. **ἐκ τούτων** “in these circumstances.” **ἐκ πολλοῦ** “for a long time.” **παραχρήμα**: litigants memorized their speeches so as to appear to present them extemporaneously. In A.'s day there were few logographers, and a litigant might succeed in such deception, but later the jurors cannot often have been fooled. **ἃ γὰρ τις μὴ προσεδόκησεν**: it is not certain how much Eu. (and A.) could have learned about the prosecution's arguments (Introd. 4) but they would have heard the prosecution's procedural arguments to the Eleven (5.10, 13) and they knew details of the slave's testimony, on which the prosecution's case was based.

#### 20–4 *The narrative*

*The prosecution have already given their narrative of the facts; in it they probably presented a vivid account of the events of the night in question, based on the dead slave's testimony. Eu. must now turn the jurors' attention to those points that are*

important for his case. He thus recounts the main events leading up to H.'s disappearance, beginning with his departure from Mytilene, stressing the role of chance and necessity. He then deals very briefly with the events of the night in question, claiming he did not leave the boat but giving no details. Finally, he describes events of the following days before he left the small harbor where they had anchored, arguing that his own and the prosecution's behavior after the crime indicate his innocence.

Despite the stipulation in classical rhetorical theory that "narrative" and "proof" be kept separate, A. intersperses arguments into this narrative, and certain facts of the case are only revealed during the later section of "proofs." The style changes markedly from the antithetical periods of the prologue and preliminary arguments to the "strung-out" style in the narrative (Intro. 8 vii).

**20 Μυτιλήνης:** Mytilene in the south-east and Methymna (5.21) in the north-west were the main cities on the island of Lesbos; Methymna did not take part in the revolt against Athens in 427 (introduction to 5, above). **φασιν:** the repetition of φασί (20, 21, 29, etc.) reminds us that the prosecution's version is merely a story. **ἀποθανεῖν:** 1.21n. on ὅφ' ὧν ἥκιστα ἐχρῆν. **Αἶνον:** Aenus was a Greek commercial city, paying tribute to Athens, near the mouth of the Hebrus river in Thrace. It was about 100 nautical miles from Mytilene, and the journey would take about three days against the prevailing winds, which usually blow from the north-west. From Mytilene one would sail along the coast of Lesbos north and then west perhaps as far as Methymna, then directly north to Asia Minor, and then north along the coast to Aenus; one would never be out of sight of land. It is likely that the boat left Mytilene early in the morning, encountered a storm in the early evening, and made it to shore before nightfall. Skala Sikaminias, where they probably spent the night (5.21n.), would be about thirteen hours' sail from Mytilene. **ἐτύχανε:** Eu. emphasizes the role of chance (τύχη), which forced things to happen as they did (ἀνάγκη). Only later (5.78) are we given a hint that his father may have been living in Aenus for economic or political reasons; the Athenian jurors would not have been pleased to hear that a rich Mytilenean was escaping Athenian taxes in this way. **Ἡρώιδης:** H.'s nationality is nowhere stated, but it is generally agreed he was an Athenian; the murder of one Mytilenean by another would probably not have been tried in Athens, and if it had, it would probably not have brought a death penalty (further arguments in Schindel 1979: 8–13). Eu. says nothing here about his prior relations with H., but from later comments (5.57–63) we can infer that they must

have known each other. **ἀνδράποδα**: these slaves may have been prisoners of war, captured during Athenian campaigns in Thrace, which took place fairly frequently at this time. We are not told how many were on board, but the impression is there were several – at least three or four. Other Thracians (probably the prisoners' relatives) had apparently come to Mytilene to arrange for a ransom, which presumably would be paid when they reached Aenus. It has puzzled scholars that Eu. does not try to cast suspicion on these Thracians, but they may have had a solid alibi; moreover, if they were going to murder H. (presumably to avoid paying the ransom), they would probably have waited until they reached Aenus. **Μάρτυρες**: the actual testimony of witnesses is only occasionally preserved in the orators (e.g. Dem. 35.14), but notations such as this (or **Νόμος**, etc.) may have been inserted by the logographer to indicate that witnesses would testify (or a law would be read, etc.) at this point. The time required for this additional material did not count against the speaker's time limit. Here and elsewhere Eu. gives little indication as to precisely which facts these witnesses confirm.

**21** There is frequent hiatus in this and the following section (5.5n.). **πρόφασις** may be either a true reason, as here (and 5.59, etc., cf. Thuc. 1.23 τὴν ἀληθεστάτην πρόφασιν), or a pretense (e.g. 5.26). **χρησάμενοι**: 1.8n. **ἠναγκάσθημεν**: 5.20n. **οὐ ἐτύγχανε**. **τῆς Μηθυμναίας** **τι χωρίου**: autopsy agrees with Green's conclusion (1982) that this can only be the modern village of Skala Sikaminias, which has had a natural harbor since antiquity. Several boats could have tied up to a dock; others would have either attached themselves to these or anchored nearby. **αὐτὸν τὸν Ἡρώδη**: the emphasis seems unnecessary, but it may help support Eu.'s contention that H. acted entirely on his own (Eu. does not here mention his own transfer to the covered boat); the same emphasis occurs in 5.24. Some editors change **αὐτόν** to **οὗτοι** (G) or (better) delete **τὸν Ἡρώδη** (Th, M). **οὐ προνοίαι**: the prosecution apparently argued that Eu. had arranged to travel on the same boat as H., to stop at the harbor, etc. The negative must be **οὐ** (ὅτι μή is a late usage – thus its occurrence in the MSS – and the parallel adduced at *MT* 686 is not valid); and it is simplest just to change the μή of the MSS (Maetzner). Some modern editors follow Jebb (1888: 15) in reading **οὐ τῇ ἐμῇ προνοίαι**, but **πρόνοια** is not used with a possessive adjective (or a possessive genitive, except for **θεοῦ**). **πεπονημένος**: strictly speaking, the participle ought to refer back to the subject, Eu.,

but the sense requires that it refer to H., who was not persuaded but went on his own. Eu. returns (αὖ) to his own reason for sailing in 5.22. It is easiest to understand ἦν with πεποιημένος as a periphrastic perfect; or we may supply ἀπελέγχεται and understand the construction as a zeugma; or we may take οὗτ' (5.22) as *anacolouthon* (5.12n.).

**22 οὗτ' . . . φαίνομαι** "it is apparent that I did not." **ἀνάγκη:** twice in this section (5.20n. on ἐτύγχανε) Eu. successfully refutes the charge that he planned these details of the murder beforehand, but he leaves open the possibility that he had wanted to get rid of H. and seized the opportunity that presented itself. **ἡ μετέκβασις ἐγένετο:** periphrastic (Introd. 8 iii 5) for μετεξέβημεν; the impersonal expression gives no hint who (if anyone) besides Eu. and H. transferred to the other boat. **ἀστεργαστον:** a typical unroofed fishing boat in a Greek harbor today might hold 5-10 people; the roofed boat to which they transferred was probably larger.

**23 ἐπίνομεν:** the imperfect is ingressive ("we began to drink"); the drinking may have continued for some time, and we are told (5.26) that H. was drunk when he left the boat. **φανερὸς . . . ἀφανής:** Eu. takes pains to distinguish between what is clearly established and what is not, giving the impression that all the events before<sup>4</sup> H.'s disappearance (including Eu.'s alibi) are in the first category; see further 3.3.3n. on ἔργα φανερά, 5.37n. **ἐγὼ δὲ κτλ.:** Eu. passes to the events of the next day with only a brief mention of his alibi. Perhaps he is trying to pique the jurors' interest, but more likely he has little evidence to support the alibi. By contrast, he dwells on his assistance in the search, though this proves nothing directly about the murder. **αἴτιος ἦν:** for the form of the imperfect see fr. 1a.1-9n. **ἐπέμπετο:** the imperfect could potentially indicate an incomplete action, but in this case αἴτιος ἦν πεμφθῆναι clearly indicates that a messenger was sent; the verb continues a sequence of imperfects beginning with ἀφανής ἦν and continuing to ὠχόμην. Skala Sikaminias (5.21n.) is about 50 kilometers from Mytilene by road, a reasonable day's walk (5.24 βαδίζειν; cf. Casson 1974: 72), though if the weather was clear, a trip by boat would probably have been easier and safer.

**24 τῶν ἀπὸ τοῦ πλοίου . . . τῶν αὐτῶι τῶι Ἡρώιδι συμπλεόντων:** the pairing of these two groups implies that they were on different boats. Therefore, "those from the boat" must be from the boat on which there was drinking; they would understandably not wish to go to great

lengths for H., whom they had probably only met that night. “Those sailing with H. himself” are probably not the Thracians or the prisoners (who would not be sent to Mytilene), but others associated with H., who may have been on board to keep an eye on the slaves and help with the ransoming in Aenus. Their unwillingness to go to Mytilene may have been caused by their need to guard the slaves, who might otherwise have sailed off to Aenus while the others were searching for H. **τὸν ἀκόλουθον τὸν ἑμαυτοῦ**: an ἀκόλουθος is often, but not always a slave; this one may be Eu.’s slave, though not the slave who incriminated Eu. under torture (5.29n., *MH* 41), or a free servant. **μηνυτήν**: 5.34n. **πλοῦς** “fair sailing weather.” **ἀνήγετο** “set sail,” the regular meaning of the middle. **ὠιχόμεν κάγω πλέων**: although relatives and friends of H. presumably came from Mytilene to investigate his disappearance and take charge of the slaves, Eu. was not accused at this time (5.25), and so he departs for Thrace. **Μάρτυρες**: these witnesses would need to testify to everything narrated since the previous witnesses (in 5.22) – namely the night of drinking, H.’s leaving the boat, Eu.’s remaining on board, the search of the harbor, the dispatch of the messenger to Mytilene, the messenger’s return, and Eu.’s departure for Aenus; thus, they probably did not give more details but only confirmed the main points of the narrative.

### 25–8 εἰκός-arguments

*This section of proofs contains some new facts as well (cf. 5.20–24n.). A. raises doubts about the prosecution’s case one point at a time, in the hope that the accumulation of small doubts will eventually throw sufficient doubt on the entire case.*

**25 τὰ γενόμενα . . . τὰ εἰκότα**: this combination of facts and εἰκός-arguments also occurs in the First Tetralogy (cf. 2.1.9, 2.2.10, etc.; Introd. 5), where the issue is a similar point of fact. As in that case, the prosecution’s main witness is not unimpeachable. **ἀνάγεσθαι**: 5.24n. **οὐδεὶς ἠιτιάσατό με**: before they interrogated the slave, H.’s relatives apparently had no evidence against Eu. **τούτων**: the prosecution (*bis*). **κρεῖσσον**: Protagoras spoke of one *logos* being “stronger” than another (fr. 6 DK τὸν ἥττω λόγον κρεῖττω ποεῖν); here the truth is (temporarily) stronger than a *logos*. **τὸ ἀληθὲς καὶ τὸ γεγενημένον** “truth and the facts.” The expression is usually taken as hendiadys (“the truth of the matter”) but for this idea A. normally uses

a genitive (5.3 τῇ ἀληθείαι τῶν πραγμάτων, 5.72 τὴν ἀλήθειαν . . . τῶν γεγενημένων, etc.). αἰτιάσεως: a rare -σις noun (Introd. 8 ii 2), occurring only in A. (also 5.89, 6.6) and in Aristotle (*Poetics* 18, 1455b31) in classical Greek. συνέθεσαν ταῦτα καὶ ἐμηχανήσαντο: the essence

of Eu.'s case is that he has been framed (συντίθημι is often used of contriving a false accusation; cf. 6.9), and that the delay in accusing him and his absence from the scene allowed the prosecution to coerce false testimony from the slave and to forge the note to Lycinus. We may suspect, however, that they had no evidence against Eu. until they searched the boat thoroughly in Mytilene (5.29), at which time they may have found the note to Lycinus and then interrogated the slave (5.55–6).

26 λέγουσι: the prosecution must have derived these details from the tortured slave. The inconsistencies Eu. alleges are relatively insignificant, but he makes much of them. ἀκριβῶς: ironic. οὐδενὶ λόγῳ εἰκότι: Eu. gives the impression that the prosecution have no explanation for H.'s disappearance, but we learn later (5.28) that in their account his body was dumped at sea from a small boat. δῆλον κτλ.: Eu.'s point that H. must have died near the harbor is consistent with the prosecution's case; but his argument seems designed to confuse the issue. αὐτὸ γίνεσθαι "it [i.e. H.'s death] happened." τῷ ἀπάγοντι "someone leading him away" (a hypothetical possibility); for the false reasoning, see E. πρόφασις: 5.21n.

27 ὁπτήρ: a poetic word; in classical prose only here and Xen. *Cyr.* 4.5.17. σημεῖον: 1.10n. ὁν τεκμήριον. καίτ' ἐγὼ συγχωρῶ κτλ. "Should I then accept their account" (even though I have witnesses to the contrary)? Of modern editors only Th punctuates as a question; most make it a statement: "But I will go further. I accept the prosecution's story" (M). But εἴτα is commonly used "in questions or exclamations to express surprise, indignation, contempt, sarcasm, and the like" (LSJ s.v. II), and the sequence of thought is more coherent with a question. παρεχόμενος . . . τοὺς μάρτυρας: since the present can denote past action whose effects are still in the speaker's mind (KG 1 135), these are probably the witnesses in 5.24, though the participle perhaps intentionally leaves open the possibility that Eu. will provide more witnesses later; similarly 6.29 παρέχομαι. μὲν . . . δέ: on the switch from participle to finite verb see *GP* 369 n.1. ὥς μάλιστα "definitely," "certainly." For this forensic idiom, usually in a conditional clause, granting someone else's case or argument, cf. 5.62,

Andoc. 1.113, Dem. 31.14, Lys. 3.34 (indirectly), 13.52, 22.1, 22.10. λαθεῖν “remain undiscovered.”

**28** ὥς κατεποντώθη: the briefest summary of the disposal of H.’s body. The prosecution presumably recounted the event in more detail, explaining how the body was placed in a boat, probably one of the many small rowboats that are found everywhere in harbors, and dumped into deep water. The body could have been weighted with rocks and any obvious traces of the crime might have washed away in the rain. ἀνδρὸς τεθνεώτος “a dead man,” or “a man who has been killed” (cf. 1.21n.). Some editors (B, followed by Th, M, Mor) add ἐντιθεμένου after τεθνεώτος to produce a more parallel expression: “a dead man placed in the boat and thrown overboard”; but καί may add emphasis (“actually thrown overboard”). σημεῖα: we learn about these shortly (5.29). μῆ: with ἀποθανεῖν; the *hyperbaton* (1.3n.) adds to the emphasis already conveyed by μῆ (S 2725–6)

29–42 *The interrogation and testimony of the two men*

*The mixture of narrative and argument continues. Since the prosecution based their case on the slave’s testimony, Eu. places the most emphasis on alleged irregularities in their interrogation. The Athenians had strict rules for the interrogation of a slave following a challenge by one party (Introd. 7, Gagarin 1996) but these rules did not apply to the investigation of a crime in which the slave may have had a hand (cf. 1.20). Eu. seeks to confuse the issue. On the other hand, once the prosecution learned that the slave was implicating Eu., they could if they wished have let him confront the slave, and they did not need to put the slave to death before arresting Eu. But they may have feared the slave would recant his testimony, whether or not it was truthful.*

*The sequence of events was apparently as follows: the preliminary investigation on the spot revealed nothing and Eu. sailed off to Aenus while the roofed boat continued to Mytilene. H.’s relatives continued the investigation in Mytilene, interrogating several witnesses. A free man denied that Eu. was involved but apparently provided few details. Then a slave, who at first had denied everything, confessed under torture to assisting Eu. with the murder and gave a fairly detailed account. The interrogators may have held out hope of freedom in return for this testimony but they then decided to put the slave to death for his part in the murder, execution being within their power if they owned the slave (cf. the pallakē, who is executed in 1.20). When the slave realized this, he apparently recanted and again denied everything. Eu. concludes from this that he was framed, but since the prosecution’s actions do not in*



*themselves prove his guilt or innocence, his task is to make his explanation of their actions more plausible than theirs.*

**29 φρούδος:** very common in fifth-century drama but only here in classical prose. **ἐπίνομεν:** Weil's emendation (1880: 150) is accepted by all modern editors; the MS reading cannot be right, since we have been told (5.28) that blood was found on the boat on which they were drinking. **ἡρεύνων** "they made a search"; the subject must be the prosecutors (H.'s relatives), who probably made only a quick search of the boat after the storm, since they had been told that H. had left this boat alive. **τὸ αἷμα:** the article is "anaphoric" (so too τῶν προβάτων below), indicating that this has already been mentioned, either in the prosecution's speech or in the testimony of witnesses. **τοῦτο** "this line of argument." **οὐκ ἐνεχώρει, ἀλλ' ἐφαίνετο:** hysteron proteron: first the blood was found to come from an animal, and then as a result the argument was disallowed. **προβάτων:** in poetry the word designates various herd animals, but in Attic prose it is usually used of sheep for slaughter or (as here) sacrifice. The sheep may have been sacrificed as thanksgiving after the storm. **τοὺς ἀνθρώπους:** Eu. is (probably deliberately) vague about the identities of the two men who were interrogated; and the prosecution probably interrogated others besides these two. We learn in 5.49 that one man is a slave, the other free. The free man was probably a Mytilenean of low standing, perhaps Eu.'s attendant (5.24n.) traveling on the boat from Mytilene (5.42n.). The slave cannot have belonged to H., whose relatives had to purchase him (5.47), or to Eu., who would never have sold them a slave who might incriminate him. If the prosecution's story is true, Eu. must have enlisted his help during the voyage, probably by promising money or freedom; see further *MH* 58–63, *M* 180n.c, *E* 88–9.

**30 ὃν μὲν:** the free man. **οὐδὲν . . . φλαῦρον** "nothing bad," a surprisingly weak expression for testimony that supposedly confirmed Eu.'s alibi; he gives some details in 5.42 (τὸ παράπαν κτλ.). **ἡμέραις . . . πολλαῖς:** the vagueness of this expression (and of ἔχοντες παρὰ σφίσιν αὐτοῖς) may be meant to suggest a longer delay and greater complicity than actually occurred. The prosecution may have needed the time to purchase the slave before they interrogated him. **Μάρτυρες:** the witnesses here and at the end of 5.35 and (probably) 5.56 are probably friends of Eu. who were present at the interrogation. One of them might be the tortured free man; if so, his testimony in support

of Eu.'s alibi is not likely to have been stronger or more detailed than Eu. leads us to believe.

**31 οἷα γεγένηται:** Eu. devotes more space to the charge of procedural irregularities in the interrogation than to any other. Many of his accusations are either speculative (as here) or intentionally disregard the differences between a criminal investigation and a *basanos* following a challenge (5.29-42n., 46-52n.); nonetheless, the net effect is to raise serious doubts about the prosecution's motives. **ἴσως . . .**

**ἴσως:** the first ἴσως modifies only the promise of freedom, about which Eu. can only speculate; that the interrogators had the power to stop the torture is not a matter for speculation. **ἐλευθερίαν ὑπέσχοντο:** slaves

could be granted their freedom for informing against their masters, so the speculation is plausible. Of course, the information so obtained was not necessarily false. **ἐπὶ τούτοις** "in their hands."

**32 ἐφ' οἷς ἂν . . . λέγειν** "people being interrogated normally testify in favor of those who have most control over the interrogation." ἥ must be supplied in the relative clause; ellipsis of forms of εἰμί other than the present indicative is rare, but the context facilitates it here (see Maetzner, KG I 41-2 for parallels). For ἐπί see 5.31n. **πρὸς τούτων**

"in their favor," "on their side" (LSJ s.v. πρὸς A.III.2). **λέγειν:** Maetzner (on 5.17) takes this as an exegetical infinitive ("so as to say," "as regards saying"), comparing ὥστε . . . ὠφεληθῆσαι (5.17). **μὴ παρόντες:** Eu.'s absence at the interrogation indicates that the slave was

not being interrogated primarily as a witness against him but rather as a suspect in the crime (the distinction was not always clear; see Todd 1990a: 33); his charges against Eu. are linked to his own confession.

**στρεβλοῦν:** although whipping or beating was the normal method of torture, the rack and the wheel were sometimes used (5.40; cf. 1.20n. on τροχισθεῖσα). **βασανισταί:** 1.10n. **ἐπιτιμηταί** "assessors," a rare

word which in this sense is otherwise found only in inscriptions (in tragedy it means "punisher," see LSJ); Eu. implies that the interrogators calculate their own interest.

**33 χρηστῆς ἐλπίδος** "good hope," here equivalent to "hope for good": as long as the slave thought he might benefit, he continued to implicate Eu. **δισχυρίζετο** "he relied on" (with the dative); the more common meaning is "affirm" (with an accusative). **ἐχρῆτο:** 1.8n.;

the imperfect is ingressive (cf. ἐπίνουμεν, 5.23n.): "he began telling the truth." The prosecution would, of course, offer a different explanation

for the slave's recantation: under torture he told the truth in the hope of being treated leniently, but when faced with punishment for his part in the murder, he tried to lie about his role. **ἔλεγεν ὅτι:** Eu. may have learned the general content of the slave's testimony from friends, who were apparently present for the slave's execution (5.34) though perhaps not for his interrogation. It is very unlikely that a transcript was made of the testimony, and Eu. appears to know only those details provided by the prosecution.

**34 διαπειραθέντα:** "persistently attempting"; only here in this sense. **οὐδέτερα:** i.e. neither falsehood nor truth; there is a slight *anacolouthon* (5.12n.) with οὐδέτερα as subject of ὠφέλησεν picking up the sense of the participles that modify its object αὐτόν, but the meaning is clear and follows a mental logic. **τὸν μηνυτήν:** the slave could be considered an "informer" in the loose sense, since he gave evidence against a free man, but the Greek term almost certainly did not have a precise legal definition. Eu. implies the treatment of informers was uniform, but it must have varied depending on factors like the slave's role in the crime. A slave who informed against his master, especially before the crime was committed, could be rewarded with freedom (for refs. see *E ad loc.*), but a slave who confessed to a crime, even while implicating a free person, could be executed, as was the *pallakē* in 1.20. In that case the *pallakē* was given over to a public executioner, but this may have been impossible in Mytilene; see further 5.47n. **ὧι πιστεύοντες ἐμὲ δίδωκουσι:** the identical words in 3.2.9 (cf. 5.52). **τοῦναντίον:** a common accusation (1.2n., 5.11). **δωρεάν** "reward" (ironic). **ἀπαγορευόντων τῶν φίλων:** cf. 5.38 προκαλουμένων τῶν φίλων. **πρὶν ἐγὼ ἔλθοιμι:** Eu. was presumably still in Aenus.

**35 σώματος . . . λόγων:** an unusual and artificial twist on the λόγος/ἔργον opposition. **ἀπεστέρει** "he withheld" (from me); in the more usual construction the accusative designates the person deprived (5.62, etc.). **μάρτυρας:** much of the argument since the previous witnesses (in 5.30) is speculation and could not be confirmed by witnesses, who could, however, testify to the slave's recantation and execution.

**36 ἐνθάδε** "here"; this must mean "here in court," even though it is debatable whether a slave could give direct testimony in court (see E, with references to other scholars). Certainly slaves did not normally

testify in court, but on this point (as on many others) the law may not have been hard and fast; cf. 5.48n. on μαρτυρεῖν ἔξεστι δούλωι. Even if the law prohibited the testimony of slaves in court, the suggested course of action is purely hypothetical and the proposal serves to emphasize Eu.'s point. ἀπελέγχειν . . . χρῆσθαι: both infinitives should be taken with ἐχρῆν; the sense is “they should have convicted me and used this means of proof.” ἀγωνίσματι: a famous word from Thucydides 1.22, where it scornfully refers to Herodotus’ “competition piece” (ἀγώνισμα ἐς τὸ παραχρῆμα); in forensic oratory (Lys. 13.77 and here) it means an argument or proof (G “moyen de preuve”). κελεύοντας: referring to a formal “challenge” (5.38n. on προκαλουμένων, Thür 1977: 62–4). This normally took place well before the trial, but Aeschines (2.126–8) proposes a challenge to Demosthenes for a *basanos* on the spot, and Thür (1977) 190–3 argues that this might have been allowed. φέρεν κτλ.: the rhetorical questions are undoubtedly spoken with scorn.

37 ἐκ τοῦ εἰκότος: by signaling that certain arguments are a matter of likelihood not fact (cf. 5.25n.), Eu. conveys the impression that his other arguments are objective. The prosecution may well have argued that it was more likely that the slave told the truth when given the hope of freedom but lied when he realized that a true account of his role in the crime would lead to his execution. φαίνονται “appear,” not “are evidently,” which would require that the participle be expressed. τῷ: Jernstedt’s emendation yields about the same sense, but the dative articular infinitive is supported by the corrector of A. ἀπώλλυτο “was about to be ruined”; “the imperfect sometimes denotes likelihood, intention, or danger in past time” (MT 38). μὲν οὖν must be adversative here – a rare use in continuous prose (GP 475). τιμωρὸς . . . σύμμαχος: striking metaphors; the latter recurs in 5.43 and 5.86. Eu. would have been an “avenger” of the truth in that he would have defended it. ἦσαν οἱ ἀφανιοῦντες “there were those who were going to make (his words) disappear.” Since the prosecution did not wish to make the slave’s incriminating words disappear (quite the contrary), the sense is probably that they were going to put away his statements for safekeeping (M); by removing the words from scrutiny, they would ensure that the truth they contained would not be revealed. Others (G, Mor, E) take the expression to mean that they were going to make the

slave who spoke the words disappear. In either case there is an allusion to the slave's disappearance (cf. 5.38 ἡφάνισαν). εἰς τὸ ἀληθὲς καταστῆναι "enter upon the truth" (1.11n.); i.e. "be corrected."

**38 οἱ μὲν ἄλλοι κτλ.:** Eu. again (cf. 5.34) stresses the prosecution's divergence from the norm; usually it is those who are accused who eliminate the accuser. **ἀπάγοντες:** here in the non-technical sense of "seizing" (the slave); Eu. may be trying to remind the jurors of Eu.'s arrest by ἀπαγωγῇ. **εἰ μὲν ἐγὼ κτλ.:** a hypothetical role-reversal (1.11n.); cf. 5.74, 5.84, 6.27–8; all but the first of these arguments is introduced by εἰ μὲν ἐγὼ (or ἐμοῦ). **ἐχρῶντο . . . ἦν:** all editors since B add ἄν after αὐτοῖς or change δὴ to ἄν, citing the nearly identical language of 5.84; for its omission in a contrary-to-fact condition, see Introd. 8 iii 2. **προκαλουμένων** indicates a formal challenge (πρόκλησις) that the prosecution should hand over the slave for interrogation by Eu. on his return (5.36n. on κελεύοντας). **ταῦτ' ἔφυγον:** i.e. the challenge was refused, as it almost always is in our sources (Introd. 7).

**39 ἄνθρωπος:** a demeaning term (1.17n.); ἀνὴρ is later used of the slave (5.40, etc.). **ἐγὼ δέ φημι κτλ.:** even accepting Eu.'s account, the alleged discrepancy is minor, since leading the two men out of the boat, helping lift up the body and put it in the small boat, and then disposing of the body at sea essentially constitutes "helping to kill" (συναποκτεῖναι). Some scholars (e.g. E on 5.54) speculate that Eu. is playing on the ambiguity in συνανελών, which commonly means "help kill," but only here and in 5.42 means "help pick up"; but since the object of συνανελών, both here and in 5.42, is ἡδὴ τεθνεῶτα (αὐτόν), ambiguity is ruled out. In 5.54 Eu. contradicts himself, claiming that the slave said he himself killed H. **ὅτι δὲ ἐξάγοι:** ὅτι is rare after φημί (S 2017a); the change from the infinitive construction is striking, and is presumably intended to emphasize the slave's actual statements. The present optative ἐξάγοι stands for an original imperfect (*MT* 673); most editors change to the aorist.

**40 πρῶτον:** thus far Eu. has mentioned only two stages in the slave's testimony, during the interrogation and just before his death; he now adds a third stage, before he was tortured. The prosecution probably argued that the slave concealed the truth at first, but finally under torture the truth came out (cf. 5.33n. on ἐχρήτο). **τροχόν:** 5.32n. on στρεβλοῦν. **ἐχρήτο:** 1.8n. **βουλόμενος:** the slave's wish to be

released from torture was earlier qualified by ἴσως (5.31) but is now taken as fact (also in 5.50).

**41 ἀπώμωξεν:** a poetic word adding pathos to the argument; only here in classical prose. οὐ χάριτι τῇ ἐμῇ “not from kindness toward me.” πῶς γάρ; ὅς γε κτλ. “How could he? After all he . . .”

**42 ὁ ἕτερος ἀνθρωπος, ὁ ἐν τῷ αὐτῷ πλοίῳ πλέων καὶ παρὼν διὰ τέλους καὶ συνὼν μοι:** the free man (5.49), possibly Eu.’s attendant (as may be implied by συνὼν, which often suggests an associate or companion), whose interrogation was mentioned briefly in 5.30. The information given here has troubled scholars: “the same boat” must be the boat in which Eu. and H. set out from Mytilene, but that the man “was present to the end and was with me” seems inconsistent with the fact that he was interrogated on the spot (5.30) and with the implication that he did not accompany Eu. to Aenus (5.52). The most likely explanation is that “was present to the end” means that the man was with Eu. until the end of the events concerning H. and then returned to Mytilene while Eu. went on to Aenus; or he may have been questioned briefly on the spot and then continued on to Aenus with Eu., whose remarks in 5.52 might mean only that he did not take the free man to Aenus before the prosecution had a chance to examine him. Less likely explanations involve the emendation of πλέων; suggestions include ὦν (Palau 1977) and πίνων (Lattimore 1987, citing Weil’s emendation in 5.29 as a parallel); for fuller discussion see *MH* 59–61, 5.29n. on τοὺς ἀνθρώπους. τῇ αὐτῇ βασάνῳ βασανιζόμενος: the decree of Scamandrios (Andoc. 1.43; see MacDowell *ad loc.*) prohibiting the torture of Athenian citizens was probably in effect at this time, and there has been considerable debate about the status of the free man here, who was apparently subjected to the same interrogation under torture as the slave. Since he was almost certainly a Mytilenean, perhaps of low status, the law protecting Athenian citizens probably did not apply (see Carey 1988, *MH* 59 n.4). ὕστερον: by “later” Eu. means the last of the slave’s three stories. συνεφέρετο: passive with the sense “agree with.” συνανελεῖν: 5.39n. on ἐγὼ δέ φημι κτλ. τὸ παράπαν is probably meant to go primarily with ἐκβῆναι (cf. 5.23 ἐγὼ δέ τὸ παράπαν οὐκ ἐξέβην ἐκ τοῦ πλοίου) but its position allows it to be heard with ἔφη as well. It is uncertain whether the free man actually testified in court; if he were present, one would expect Eu. to call him as a witness here.

43–5 *More eikós-arguments*

*Eu. returns to the method of argument he used in 25–8 to show that the prosecution's reconstruction of the crime is not plausible. In response, the prosecution could raise several points he omits: Eu. needed someone's help to dispose of the body; others on the boat were drinking and thus might not hear any noise; and the storm would have drowned out any noise and washed away bloodstains.*

**43** εἰκός and εἰκότα (at the end of 5.45) frame the intervening εἰκός-arguments, which do not, however, use the word itself. **σύμμαχον:** in 5.37 truth is Eu.'s ally. **κακοδαίμων:** a common word in comedy, meaning lit. "possessed by an evil genius" (LSJ); here perhaps "deluded." For the accusation of inconsistent behavior, see 2.2.3n. **ἤδη δὲ πεπραγμένου μοι τοῦ ἔργου:** only here does Eu. claim (rather vaguely) that he only enlisted help after the crime was accomplished (cf. 5.39).

**44** ἀποθνήσκων: 1.21n. **αἰσθῆσιν οὐδεμίαν ἐποίησεν** "created no perception," i.e. was not perceived (cf. Dem. 10.7 οὐ ποιεῖ τὴν αἰσθῆσιν εὐθέως, "is not immediately perceived"). **πολλῶι <ἐπὶ> πλέον γε ἀκούειν:** although G and F defend the MS text (πολλῶι πλέον γε ἀγνοεῖν) as an imagined objection, "not hearing a noise happens much more at night, etc." (F), there are several reasons for emending it: (a) this is a very awkward way to express this idea; (b) although καὶ μὴν (usually = "furthermore") can introduce a new speaker's objection ("yes, but") or the speaker's own objection ("and yet"), it is unparalleled as introducing someone else's imagined objection (*GP* 357–8); (c) ἀγνοεῖν is not used in this sense, and πολλῶι πλέον is unparalleled, according to Wyse (1904: 311); and (d) Eu.'s next point does not answer the alleged objection, as one would expect. Schömann's emendation is the simplest of several that have been offered. **ἔτι ἐγρηγορότων** "when people were still awake"; by omitting the subject of the genitive absolute Eu. continues to be vague.

**45** νύκτωρ: at night it was presumably more difficult to remove traces of the crime. **ἀναιρεθέντος** "having been killed," the more common meaning (cf. 5.39n. *on* ἐγὼ δέ φημι κτλ.) **ἀναξύσαι** "scrape away," a rare verb, perhaps coined by A.; otherwise in classical Greek found only once in Aristotle. **ἀνασπογγίσαι** "sponge clean" is fairly common (sixteen times) in the Hippocratic writings, otherwise only

here; the uncompounded verb is used by Aristophanes. ἀποσπογγίσαι (the reading of *A*) only occurs twice in the Hippocratic writings, but is fairly common in later Greek; it is thus more likely to have been mistakenly substituted by the scribe of *A*. ἔνδον ὦν αὐτοῦ “in control of himself.” The participles are conditional (as indicated by μή) and all modern editors insert ἄν after ἡμέραν; for its omission in a contrary-to-fact condition, see Introd. 8 iii 2. εἰκότα: 5.43n. on εἰκός.

46–52 *The interrogation and testimony of the two men (cont.)*

*A continuation of the earlier arguments; see 5.29–42n.*

46 καθ’ ὃ τι “to whatever extent.” τάληθοῦς = τοῦ ἀληθοῦς. ἐξέληται τοῦτο “remove this [thought]”; cf. Plato, *Ap.* 19a ἐξελεῖσθαι τὴν διαβολήν. μηνυτήν: 5.34n. ἄξαι: the first aorist of ἄγω is rare, but does occur (e.g. Timotheus, *Persians* 153); many editors emend. τοῦτο: i.e. my interrogating the slave.

47 πριάμενοι: the slave must have belonged to someone other than H. or Eu. (5.29n.). H.’s relatives could have interrogated him with his master’s permission but they would certainly need to buy him before putting him to death; the delay in examining him may have been caused by negotiations about the details of the purchase or the conditions for interrogation. ἰδίαι ἐπὶ σφῶν αὐτῶν “by themselves,” “on their own.” Eu. puts much emphasis on the illegality of their killing the slave themselves (cf. the repeated αὐτοί), but even if he is correct that a legal violation occurred, the slave’s story may still be true, since H.’s relatives may have taken the law into their own hands simply because they wanted to see him punished for his role in the crime. Some scholars assert that it was illegal to kill one’s own slave, but most likely the law on this subject was neither clear nor certain (see E’s thorough discussion). Eu. refers to laws that, he argues, have implications in this case, but he does not cite a specific law directly applicable to the situation; we may infer that no such law existed. It may have been the normal practice to turn a slave over to an official for execution (as in 1.20), but this was not necessarily required by law (cf. 5.48n. on νόμους . . . πατρίους), especially in Mytilene, where the only Athenian officials may have been tax-collectors and such, who would not wish to take on the role of executioners. Treaties between Athens and Mytilene almost certainly



made some provision for transferring capital cases (such as Eu.'s own) to Athens so they could be decided by Athenian jurors, but these would not have applied to slaves who committed private crimes; see further *MH* 74–7. **αὐτόχειρα** “one who kills with his own hands”; the prosecution did not claim the slave was the actual killer, but his involvement in the murder, as they portrayed it, was sufficient to justify his execution. **ἔξεγγυῆσαι** “release him with security”; the friends would have given sureties (5.17n.) that the slave would be returned in good condition after Eu. had interrogated him. **οὐδὲ πόλει**: under the terms of the treaty with Mytilene, it appears, not even the city, let alone an individual, could execute someone without a vote of the Athenians. In claiming that H.'s relatives are violating the treaty with Athens, Eu. subtly glosses over the fact that they are Athenians themselves. **λόγων . . . ἔργων**: 5.5n. **τουτουσί**: the jurors.

**48 ἐπ' αὐτοφώρῳ**: 1.3n. **νόμους . . . πατρίους**: the vagueness of these “ancestral laws” implies the absence of any specific law (5.47n.), and the arguments presented in the next sentence further suggest that there is no explicit law on the subject. **μαρτυρεῖν ἔξεστι δούλῳ** “it is possible for a slave to testify”; this may refer to the slave's testimony being introduced in court by others and does not necessarily mean the slave could appear in court himself. Although most scholars rightly take the dative with ἔξεστι, E (pp. 90–1, following MacDowell 1963: 104) takes it with μαρτυρεῖν, translating “to give evidence for a slave,” i.e. in a case where the slave is dead and someone is prosecuting his killer. But μαρτυρεῖν τινί is used for giving testimony on behalf of a litigant, and although it is only a slight extension to use it for testimony on behalf of a dead person for whom someone else is prosecuting, the switch in construction from the dative with μαρτυρεῖν here to a dative with ἔξεστι in the next clause would be very difficult. Eu.'s point is that in other respects slaves participate fully in the legal system; thus this slave ought to have been given his day in court. **ψηφός ἴσον δύναται** “a verdict can be rendered equally”; a slight exaggeration, since prosecutions for killing a slave were heard by a different court than killing a free man (the Palladion) and may have resulted in a different penalty. **ὕμεις δικαιοτέρον**: the MSS (and editors) differ on the word order, but the mild *hyperbaton* of *A* is characteristic of *A*. and less likely to be the result of scribal error. **ὕμεις**: the prosecution. **ἀδικῶς**:

the unusual position at the end of the sentence lends emphasis (many editors delete it).

**49 δίκαιον . . . εἰκός:** in fact Eu. only considers likelihood. **δύο λόγῳ** “two accounts”; he actually gave three statements involving two different versions. **φλαῦρον οὐδέν:** again (5.30n.) Eu. surprisingly reports no details of the man’s testimony.

**50 τοῦτο μὲν . . . τοῦτο δέ:** adverbial (1.1n.). **προτείνοντας:** there is no need to follow all editors since Reiske in changing this, the MS reading, to an aorist (Reiske had false information about the MSS). **πείσαι:** with οὐκ ἦν; the *hyperbaton* is awkward. **δέοι:** the optative in a generalizing relative clause in the past (S 2568); the optatives in the rest of the sentence are in indirect discourse. **ἐπεὶ** “and yet” (LSJ s.v. B.4); in this sense it is commonly accompanied (as here) by γέ (S 2380). **ἠπίστατο:** from ἐπίσταμαι. **στρεβλούμενος:** 5.32n. **τὰ τοῦτοις δοκοῦντα** “what they wanted” (δοκέω in the sense of “seem best”).

**51 ἀνθρώπου:** the slave. **ἐκατέρῳ ἴση ἐστί:** the text is damaged but all editors agree on the sense. (G, followed by F, accidentally omits λόγων τῶν, unwittingly illustrating a common scribal mistake.) **ἔκ τε . . . ἔξαρκος ἦν:** often deleted by editors on the grounds of harsh syntax and unsound reasoning; but the syntax is not untypical of A. (for single τε see 1.9n. and the ellipsis of τῶν λόγων provides a characteristic variation in parallel clauses) and the argument is plausible, though strictly speaking the slave both affirmed and denied. Here, as elsewhere (Introd. 8 vi 1), Eu. adds points that are largely repetitive; this may not be effective with readers, but even today repetition beyond what seems necessary is a common strategy in oral argument. **καὶ μὲν δὴ** commonly marks the transition to a new point; here the “transition to major premise, with conclusion left unexpressed” (GP 397). **ὁ ἀριθμὸς κτλ.:** the so-called “vote of Athena” (dramatized in Aeschylus’ *Eumenides*) provided that if the jurors cast equal votes, the defendant was acquitted. G suggests there may be an allusion to an archaic formalist procedure of counting witnesses, but the evidence for such a procedure consists only of one restored Cretan inscription (*ICret* IV 81.11–16; see Gagarin 1989b: 51–2), and in general there is scarcely any formalism in early Greek law.

**52 ἡ μὲν:** coordinated with φασὶ δέ in 5.53. **ἡ . . . πιστεύοντες:** 3.2.9n. **εὖ εἰδέναι:** probably ironic in tone; cf. 1.6n. **ἠφάνισ’:**

another variation on the theme of disappearance (cf. 5.37n.). Eu. may be exaggerating his hold over the two men but he is likely to have at least some basis for this claim (the free man may have been his attendant (5.29n.) and he could perhaps have purchased the slave). This is potentially a strong argument, at least as regards the slave, who apparently provided the main evidence against Eu.; but it seems to come in here almost as an afterthought. **τὴν ἡπειρον:** Asia Minor.

### 53–6 *The note to Lycinus*

*In addition to the slave's confession the prosecution relied on an incriminating note to a certain Lycinus, an acquaintance of Eu. and H. It is difficult for us to assess Eu.'s arguments on this point, since he gives very few facts about the note, its contents, or the circumstances of its discovery. Thus we do not know what the note said, or what linked it to the slave, to Eu., or to Lycinus. If the facts are more or less as Eu. suggests, his εἰκός-arguments have considerable force, since there is no apparent reason why he would send a written message with information that could easily be communicated orally at less risk. But there may be much that he does not tell us, and his apparently false and misleading allegations of contradictions<sup>1</sup> in the letter suggest that he lacks any stronger arguments.*

**53 γραμματεῖδιον:** the diminutive is dismissive (Carey–Reid on Dem. 54.37, 56.1); the “note” may have been written on a piece of papyrus or on writing tablets. **τῷ πλοίῳ:** this must be the roofed boat, which sailed to Mytilene after H.'s disappearance (5.29). **Λυκίνῳ:** a mysterious figure for us, but the prosecution must have given the jurors more information about him, since they apparently alleged that he was involved in the murder (5.60–3). Scholars generally agree that he was an Athenian (Blass 1887: 175, n.3), who had had previous dealings with both Eu. and H., and he may have been a cleruch, like H. (introduction to 5, above). **τί ἔδει:** one may indeed wonder why Eu. needed to send a written note, especially if Lycinus was in Mytilene at the time, where he presumably would already know of H.'s disappearance (though perhaps not that Eu. was involved). Possibly he was abroad and the note was going to be delivered to him. (In Euripides' *Iphigenia in Tauris* 726–78 Iphigenia gives Pylades a letter and then repeats the six-line message to him in case he loses the letter, though there are dramatic reasons for this.) **τοῦ . . . φέροντος:** the slave who confessed; the jurors would know this from the prosecution's

speech. The transposition of *τίνος γε δὴ . . . ἐμοὶ κάκείνω* to 5.57 is accepted by all editors. **ἀ γὰρ κτλ.:** this use of a generalization about human behavior to support a specific conclusion creates an implicit *εἰκός*-argument, see *Introd.* 6.

**54 τοῦτο μὲν . . . τοῦτο δέ:** although this pair is commonly adverbial (1.1n.), here it is misleading; *τοῦτο μὲν* is indeed adverbial, but *τοῦτο δέ* is demonstrative: “this message.” **τῷ μὴ διαμνημονεύειν κτλ.:** the articular infinitive in the dative expressing cause. **τέθνηκεν ὁ ἀνὴρ:** the message may not have been quite this short, since Eu. later implies that the note in itself implicates him (*ἀνοιχθὲν ἐμέ τὸν ἀποκτείναντα ἐμήνυε*), but a note this short could have been all that was needed. **διάφορον . . . διάφορος:** several editors delete the second clause as redundant, but see *Introd.* 8 vi 1. **αὐτὸς ἔφη ἀποκτείνει:** in 5.39 Eu. explicitly challenged the prosecution’s claim that the tortured slave admitted killing H. and argued instead that the slave only admitted helping Eu. before and after the murder. But in any language “kill” can be applied more or less loosely to differing degrees of participation (5.39n.), and the jurors may not have noticed the contradiction.

**55 ποτέρῳ χρη πιστεῦσαι:** cf. 5.36 *ποτέρῳ νῦν χρήσονται τῶν λόγων;*, 5.50 *ποτέρῳ οὖν εἰκός ἐστι πιστεῦσαι;*. The repetition would reinforce the claim that the prosecution’s case was full of contradictions. **πρῶτον . . . ὕστερον:** the boat may have been searched for the first time when it arrived in Mytilene (and sheep’s blood was found, 5.29), or (more likely) a quick search may have been made right after H.’s disappearance. **ἐμεμηχάνητο:** 5.25n. **εἰσβάλλουσιν:** this too seems scornful (5.53n. on *γραμματεῖδιον*): H.’s relatives just “toss” the note into the boat; the historic present adds to the effect (cf. 1.20n.). **ταύτη:** adverbial, “in this way.”

**56 ἀφανίσαι:** cf. 5.52, 5.37n. **ἀπὸ πρώτης:** sc. ἀρχῆς, “from the beginning.” **Μάρτυρες:** in addition to providing support for Eu.’s argument, the witnesses mark the transition to a new topic.

### 57–63 *The motive*

*Eu. defends himself against several possible motives – enmity, fear, hope of enrichment and doing someone else a favor. The prosecution may have alleged all of these motives individually or together. Although Eu. does little to clarify his past relations with H. or Lycinus, it appears that he had had previous business dealings with both*

men, and these may have carried over into legal contests. His possible motives, therefore, may have included bitter feelings from his past dealings with H., the fear of legal or financial harm from H., the hope of profit from H.'s death either directly or by a reward from Lycinus, or other motives arising from his dealings with Lycinus. The prosecution's allegations would have been speculative, especially as regards any conspiracy with Lycinus, but they may have had enough evidence (supported by witnesses who were friends or relatives of H.) of previous dealings among the three men to make a plausible argument about motive. The same motives are often alleged (or denied) in forensic speeches (e.g. *Lys.* 1.43 4, *Dem.* 29.22 4), especially in cases that arise from previous legal wrangling, which can result in a combination of personal enmity, fear of further prosecution, and hope for financial gain (e.g. 2.1.5-8; *Fr.* 1a).

**57** τίνος γε ἢ κτλ.: 5.53n. οὐ τοῦ . . . φέροντος. χάριτι: 5.41n. Presumably this does not represent the prosecution's full allegation, but they probably used the word, and Eu. seizes the opportunity to belittle the idea that one could commit murder as a favor. τοῦτο (*bis*): i.e. commit murder. ὑπάρχειν: 5.4n. τὴν πρόνοιαν . . . φανεράν εἶναι ἐπιβουλευομένην "premeditation of a plot must be [εἶναι with δεῖ] evident"; the participle is loosely attached. ἐμοί . . . ἐχθρα οὐδεμία: the repetition masks the fact that Eu. offers no support for this claim.

**58** ἀλλὰ . . . ἀλλὰ κτλ.: the repetition of ἀλλὰ with each allegation and its refutation is rhetorically effective in rejecting the seemingly endless list of motives proposed by the prosecution; cf. *Gorgias, Pal.* 13-19, where fear and profit are among the motives rejected. ἀλλὰ χρήματα . . . αὐτῷ: all modern editors accept Dobree's transposition, which seems necessary to fit the argument in 5.59 (see especially τὴν πρόφασιν ταύτην). The statement that H. had no money is not supported; he would have received ransom money for the prisoners he was taking to Aenus, though some of these may have belonged to others. It is also possible that Eu. would profit by avoiding a costly lawsuit that H. was going to bring against him.

**59** πρόφασιν: 5.21n. χρημάτων ἕνεκα: the suggestion was made earlier (5.10 ἕνεκα . . . τοῦ σφίσις αὐτοῖς λυσιτελοῦντος); here Eu. provides no further support for the charge. For ways to profit from prosecution see introduction to 5, above. σὺ ἐμοί ἐκείνου: the extreme ellipsis is harsh but the sense is clear: "you (ascribe this motive to) me (for killing) him." ἀλοΐης: cf. 2.1.5n. οὐ εἶλεν. For the thought that the prosecution deserve trial rather than the defendant, cf. 2.2.11 ἀποκτείνας:

“for having killed me,” i.e. “if you kill me” (by obtaining a death sentence against me in this trial). **ἀναγκαίων:** i.e. his other relatives (1.4n.); presumably the prosecutor is a relative too. **φανερὰν . . .**

**ἀφανεῖ:** cf. 5.23n. Eu. has charged that the prosecution have not made his motive clear (5.57), and he contrasts this with his own accusation, which cites one clear motive (profit) as opposed to a mixture of several.

**60 ταῦτα μὲν ὑμῖν λέγω, ὥς** “I tell you this because”; ταῦτα refers back to his charge (5.59) that the prosecution’s case is unclear, not (as almost all scholars understand it) to the assertion that follows. ὑμῖν almost certainly designates the jurors (so too 5.61 ὑμετέρων), and Eu. switches to the third person (ἔχει, αἰτιῶνται) for the prosecution, whom he was previously addressing in the second person singular. In oral presentation the confusion felt by the reader could easily be avoided by gestures.

**αὐτῷ μοι πρόφασιν οὐδεμίαν ἔχει ἀποκτείνειν** “he has no motive for *me* to have killed” the man. The expression is difficult and is commonly emended by adding an article to the infinitive (to make it the subject) and perhaps changing ἔχει to a past tense; but (as in the English version) the awkwardness does not prevent our understanding the expression, and emendation is unnecessary. Eu. explains to the jurors that he accuses the prosecutor of not having a clear case against him because he, the prosecutor, does not have a specific motive for Eu. to have committed the murder (for πρόφασις with a simple infinitive, see Soph. Phil. 1034 αὕτη γὰρ ἦν σοι πρόφασις ἐκβαλεῖν ἐμέ). αὐτῷ μοι is emphatic to contrast with the following remarks about Lycinus, to whom the prosecutor apparently did assign a specific motive. **οὔτε γὰρ χρήματα ἦν αὐτῷ ὁπόθεν ἂν ἔλαβεν** “nor did he have (a source) from which he would receive”; the separation of χρήματα from ἔλαβεν is difficult.

**61 τεκμήριον:** 1.10n. The “evidence” is hypothetical and pretty flimsy: Eu. gives no specific indication how serious a crime H. had allegedly committed or how strong a case Lycinus could have brought against him. **αὐτόν:** H.; however, Eu. uses ἐκεῖνος for H.

before and after this, and the following αὐτῷ designates Lycinus. **καταστήσαντι:** transitive. **προωφείλετο αὐτῷ κακόν** “payment for a previous wrong was owed to him”; i.e. if there had been previous dealings between the two men and Lycinus felt H. owed him something, this

would have been the time to settle the score. **καὶ τό τε ἴδιον . . . καὶ τῇ πόλει:** the orators often seek to join public and private interests (e.g.

Lys. 12.2). **χάριν καταθέσθαι** "earn gratitude"; one "deposits" a favor with the city, which then owes one a favor in return (the same expression in Thuc. 1.33.1). **οὐδ' ἤλθεν ἐπὶ τοῦτον:** i.e. "he did not even proceed against him" (i.e. with legal action). **καλλίων** "more honorable"; for the Athenian view of litigation as a means of asserting or defending one's honor, see Cohen (1995). **αὐτῷ:** most editors posit a lacuna here both to make the sense clearer (that it would have been more honorable to take legal action than to commit the alleged murder), and to provide the formulaic introduction the other witnesses receive in this speech. But the sentence makes sense without any supplement, and the summoning of the witnesses may not always have been written into the text (cf. 5.83n.). If change were desired, it might be best to delete **Μάρτυρες**, since it is hard to see what the witnesses could testify to (that Lycinus did not take legal action?) and 5.62 follows directly from the end of 5.61 with no allusion to the testimony of any witnesses (contrast 6.15–16).

**62 ἀλλὰ γάρ** "but, as a matter of fact" (*GP* 101). **ἐνταῦθα μὲν . . . ἐνταῦθα δ':** in the potential lawsuit . . . in the murder. **ἀφῆκεν αὐτόν** "he let him go"; the subject is Lycinus. **οὐ δέ:** although both MS readings are syntactically viable, neither conveys the necessary sense that previously Lycinus avoided action *despite* the absence of risk, whereas now he is alleged to have acted when the risk was great. **ἀπεστέρει κτλ.:** Eu. speaks of two different punishments, exile for him and banishment from everything that is sacred and holy and valuable for Lycinus, but it is unlikely that the punishments would be significantly different if both were convicted. E suggests that Eu. is referring to the possibility that Lycinus would be charged only with plotting the murder (*βούλευσις*), but our evidence indicates that someone accused of plotting a murder would be brought to trial by a *δίκη φόνου* and would face the same punishment as the actual killer; see further introduction to 6, below, Gagarin (1990b). G deletes the whole sentence (beginning with *ἐν ᾧ*) on the ground that the punishments are too mild for homicide, and one would expect Eu. to mention a harsher penalty, whatever the reality. **ὡς μάλιστα:** 5.27n. **οὕ:** the antecedent follows (*ἔργον*).

**63 διακινδυνεύειν** "take a great risk," the earliest use of this compound which is fairly common in the orators, Thucydides and later historians; for compounds in A., see Introd. 8 ii 4. **ἐκπρίσθαι** "buy off," a rare compound; only three other occurrences in the orators

(always negative), and a few examples in later Greek. αὐτὸ τοῦναντίον “just the opposite” (adverbial). ὑπερήμερον “in default”; lit. “past the day” a loan was due. ἑπτὰ μνῶν: the genitive expresses value; seven minas was a fairly large sum (see Introd. 4: A note on currency). λύσασθαι: i.e. from prison, where he probably was sent as a public debtor (assuming a similarity between Mytilenean and Athenian law). καὶ μὲν δῆ: 5.51n. χρείας . . . ἐχρώμην “relationship . . . treat as”; cf. 1.8n. οὐ σφόδρα “not very,” implying, however, some degree of friendship. οὐ γὰρ δῆπου goes with the whole sentence: “it is surely not the case” (that I did not pay his debt but I did commit murder). ἀράμενος: aorist middle of αἶρω (αἶρω).

#### 64–73 Proof and certainty

*An extended argument that the jurors ought to be completely certain before convicting someone in a capital case, since innocent people are often wrongly accused of crimes and a wrong verdict cannot be remedied later. Three historical examples are introduced (5.67–71) to show that (a) where the killer is unknown, someone who was with the victim is not necessarily guilty (illustrated by the killing of Ephialtes and, hypothetically, the killing of a slave’s master), and (b) some men executed for crimes are later found to be innocent (illustrated by the Hellenotamiae).*

Scholars have wondered why Eu. refuses to speculate about other possible killers (or other scenarios, such as an accidental drowning) and have offered various speculations of their own. In a very similar situation, moreover, the defendant in the First Tetralogy also complains that he should not have to reveal the actual murderer in order to prove his innocence (2.2.4, 2.4.3), but he then takes up this task nonetheless (ὁμῶς δέ, 2.4.3). Reasons for avoiding such speculation in this case may be (a) the slave’s detailed account together with other facts that may have been established (e.g. that a guard was watching the Thracian prisoners, whom some have regarded as likely suspects) may have deterred such speculation; and (b) such speculation would take time away from Eu.’s argument that the jurors should not condemn him unless they are certain. A. may have concluded that he could not create enough suspicion about another suspect to increase significantly the doubt already in the jurors’ minds. However, it is still puzzling that he does not suggest any alternative, even briefly, and that he dwells at such length on his refusal to speculate (5.64–6). He would not have to describe in detail just how Herodes met his end, but he could easily cite the stormy conditions, Herodes’ drunken state, and other factors conducive to an accidental drowning, while continuing to maintain that he himself never left the



boat.

**64** ὥς . . . ἀποδέδεικται: cf. 4.4.9. πλείστῳ: most editors (not G) add τῷ after this (to go with τούτῳ . . . λόγῳ), assuming it dropped out by haplography. The emendation is attractive but unnecessary, if we take λόγῳ as predicative: "they use this as their strongest argument" (S 1178a). ἀφανής: the prosecution probably did not emphasize H.'s disappearance as much as Eu. does, for they must have realized that the absence of a corpse was a weakness in their case. ἐξ ἴσου κτλ.: however, Eu. was present at the time, whereas the jurors were not. τοῖς ἀληθείαι χρησθαι: 5.33n. οἱ ἐχρῆτο. ἐρωτώντων: the form of the third person plural imperative is indistinguishable from the participle. There is evident irony in suggesting that the prosecution should ask one of those w/ o did it for an account. ἀριστα: all modern editors read ἀριστ' ἄν; but see Introd. 8 iii 2.

**65** τὸ μακρότατον τῆς ἀποκρίσεως "the fullest answer," a Thucydidean form of expression ("an adjective . . . converted into a neuter substantive followed by a noun as dependent genitive," Rusten 1989: 22). εὖ εἰκάσαι: sc. ῥάδιον ἐστίν. Of course, the murderer would not have to speculate. πρόφασιν "plausible explanation" (5.21n.). περὶ τῶν ἀφανῶν εἰκάζειν: the idea that speculation about the unknown is not certain here comes together with the theme of disappearance (5.37n.): the disappearances of H. and the slave mean that the facts after H. left the boat have disappeared (they were clear and certain up to the point of H. leaving the boat, 5.23n.) and are thus a matter for εἰκός-arguments, or speculation. ἀπορίαι: 1.1n.

**66** μὴ . . . νείμητε "do not present" (νέμω). ἀξιούτε: with the infinitive here (and in 5.68) means "think that . . . should," "expect." For the change from aorist subjunctive to present imperative, see S 1841d-e.

**67** γεγονός "it has happened" (that); as in English, the subject is supplied by the clauses that follow. τὰς αἰτίας ὑποσχεῖν: ὑπέχειν is often used in legal contexts to mean "undergo" or "suffer" a penalty, a trial, or (here) blame for something; cf. Plato, *Ap.* 33b τούτων . . . οὐκ ἂν δικαίως τὴν αἰτίαν ὑπέχοιμι.

**68** αὐτίκα "for example" (LSJ s.v. II). Ἐφιάλτην: the most notorious unsolved crime in Athenian history at the time. Ephialtes, an associate of Pericles, was murdered in 461, probably as a result of the reform of the Areopagus he carried out in 463. Despite many sugges-

tions, including *AP* 25.4, which names a certain Aristodicus of Tanagra as the killer, no solution has been agreed upon by ancients or moderns (see Rhodes 1981: *ad loc.*); and the jurors would probably have agreed with Eu.'s presentation of the crime as unsolved. There is no reason to suspect an "oligarchic view" of the murder (G). **ἡξίου:** 5.66n. **εἰ δὲ μὴ** "otherwise" (i.e. if they do not make a plausible conjecture). **ἐνόχους:** 1.11n. **κινδυνεύειν** depends on **ἐξήτησαν**, a slightly awkward construction but preferable to emending to **ἐκινδύνεον**, as some do. The idea is that disposing of the corpse would increase the risk of exposure (as it allegedly did in Eu.'s case). **τῆς δ' ἀναιρέσεως:** it is possible to understand this phrase as responding to **τῆς μὲν ἐπιβουλῆς (τοῦ θανάτου)**, "the murder" as opposed to planning the crime, but the noun (in contrast to the verb, 5.39n.) only has this sense in late Greek; we should thus translate "the picking up" (as in 3.3.6).

**69 τοῦτο δ':** adverbial without **τοῦτο μὲν** (cf. 1.11n.); the next example is similarly introduced. **ἐντὸς οὐ πολλοῦ χρόνου:** A. may have used this example, which only hypothetically fits his needs, because it happened very recently and was thus in the minds of the jurors; we know nothing of the event besides what is said here. **παῖς:** presumably a slave, or he would be further identified. **ἐξήτησεν:** the attempt was unsuccessful. Eu.'s point is that if the slave had not panicked, he would have succeeded and would not have been identified as the killer. **ἀνεβόησεν:** the subject is the master. **ἅπαντες:** although the actual killer would have been among those executed, Eu.'s point is that many innocent people would also have been executed because the killer was unknown. It is not clear what legal grounds, if any, justified a master's executing his own slave, let alone his whole household; cf. 1.20 (the concubine confesses and is handed over to a public executioner), 5.47 (Eu. protests that a slave should not have been killed by his master without a trial), and 6.4 (a master who kills a slave suffers no punishment but must be purified). **οὐκ οὕσαν:** i.e. (blame) that was not true. **οἱ Ἑλληνοταμίαι:** a group of ten (later twenty) officials created in 478 to oversee the finances of the Delian league. This episode, which is not mentioned in any other source, must have occurred in the 450s or 440s (see 5.71). Athenian law required individual trials for all accused of crimes (a rule notoriously violated in the case of the generals after the battle of Arginusae in 406); the Hellenotamiae would thus have been tried and sentenced one by one, with Sosias presumably being the last.

ὀργῇ μᾶλλον ἢ γνώμῃ: the phrase has a Gorgianic ring; it recurs in Thucydides 2.22.1. καταφανές: cf. 5.65n. on περὶ τῶν ἀφανῶν εἰκάζειν.

70 κατέγνωστο: here with genitives for both the person convicted and the penalty; cf. 2.2.12n. ἐν τούτῳ “meanwhile” (LSJ s.v. οὗτος C.VIII.6.b). τῷ τρόπῳ: an Ionic use of the article as a relative. Some editors emend to ὅτῳ τρόπῳ (cf. 5.66, 5.71). ἀπήχθη: on the non-technical sense see 5.38n.; there may be an ironic allusion to the fact that those arrested by ἀπαγωγή (like Eu.) were delivered to the Eleven. ὑπὸ τοῦ δήμου: probably by a vote of the Assembly.

71 βασανίζειν “to test,” the original meaning of the word (1.6n.). μὴ . . . γνῶτε: cf. 2.4.12 μὴ μετανοήσαντες τὴν ἀμαρτίαν γνῶτε. διαβολῆς: possibly an allusion to anti-Mytilenean sentiment in Athens. There is a similar warning against haste, anger and prejudice in the speech Thucydides gives Diodotus during the Mytilenean debate, urging the Athenians to reconsider their hasty decision of the previous day; see esp. 3.42.1 νομίζω δὲ δύο τὰ ἐναντιώτατα εὐβουλίαί εἶναι, τάχος τε καὶ ὀργήν. Eu.’s remarks may be intended to remind the jurors of their change of heart on that occasion.

72 οὐ γὰρ . . . τοῦ ἀνθρώπου: lit. “there is nothing that an angry man would decide well, for it [i.e. his anger] destroys the facility with which he plans, the man’s judgment.” This maxim, which would not be out of place among the surviving fragments of A.’s *On concord*, was included in Stobaeus’ anthology compiled in the fifth century AD (*Flor.* 20.44). Stobaeus’ text shows minor differences from the MSS of A., but these may have arisen in the process of excerpting and need not be a sign of textual corruption. μέγα: sc. ἐστί: (day succeeding day) “is a great thing.” μεταστῆσαι: epexegetic infinitive with μέγα: “for changing” (anger into judgment).

73 ἴστε: imperative. εἰκός: here = “reasonable,” indicating a general standard of human behavior; cf. 1.2n. τὸ ὑμέτερον δυνάμενον “your ability.” The article with a neuter participle functioning as an abstract noun is characteristic of Thucydides (Rusten 1989: 22–3; Pritchett 1975: 92 n.32), as is the further addition of words dependent on the participle; similarly τὸ τῶν ἐχθρῶν βουλούμενον = “my enemies’ desire.” ἐπισχεῖν: ἐπεχεῖν has two basic meanings, “extend towards” and “keep away,” “keep back” (cf. English “hold out”); here in the second sense = “wait.” Eu. alludes to the possibility, which he later

elaborates (esp. 5.85–90), of a second trial by the regular procedure of δίκη φόνου after an acquittal in this trial (cf. 5.16n. on ἀναμφοισθητήτως). τῷ παραχρῆμα “immediate (action).” ἀρχήν: adverbial, with a negative = “at all” (LSJ s.v. I.c).

74–80 *Euxitheus’ father and the Mytilenean revolt*

*Eu. now defends his father, whose role in the Mytilenean revolt some ten years earlier the prosecution had evidently discussed, perhaps at length. This is a dangerous area for Eu., since most jurors would remember the event well and many presumably still harbored ill will toward Mytilene. Eu.’s strategy is to downplay his father’s role in the events, while portraying him as a wealthy Mytilenean who, much like a wealthy Athenian, contributes his share to the city but is constantly pestered by sycophants (Introd. 7). This last point leads to a renewed attack on the prosecution’s motives for bringing this case; he now accuses them explicitly of being sycophants themselves.*

*Eu.’s defense of his father is in some ways a self-contained speech (Vollmer 1958: 109–11; E 111–12); he must have anticipated that the prosecution would include his father and the famous revolt in their arguments, but he (and A.) may have taken care that his own discussion of his father could be deleted at the last minute, in case the prosecution did not mention him.*

74 καίτοι γε κτλ.: 5.74–5 form a kind of prologue to the defense of his father, in which the sentiments expressed and the verbal effects, such as the *pariosis* and *paromoiosis* of ὁ μὲν . . . ὁ δέ (Introd. 8 v 2), are appropriate. Similarly, the sentiments in 5.80 (ὕμεις βοηθήσατέ μοι, etc.) are appropriate for an epilogue. εἰκός: 5.73n. πρεσβύτερος . . . τῶν ἐμῶν πραγμάτων “older than my affairs”; the sense is clear (Eu.’s father has been alive longer than Eu. has been active) but the odd expression appears motivated by a desire to reiterate the opposition older/younger without much regard for clarity. Nothing about Eu.’s age can be inferred from this. εἰ μὲν ἐγὼ κτλ.: 5.38n. ἀγωνιζομένου “contending in court,” “being a litigant” can designate either litigant (cf. 5.3, 5.4, 5.7), but here it must be the prosecutor (τούτου). ἀκοῆς: several passages in the orators inform us that most hearsay evidence was prohibited (e.g. Dem. 46.7, 57.4), but we do not know the wording of any law on the subject and the prohibition may have been only implicit. Exceptions were apparently numerous (the words of the dead or others absent from Athens were allowed) and, as with any restrictions on testimony, the rules could only be enforced by the jurors

heeding the objection of the opposing litigant; see further Bonner (1905) 20–5. Although he earlier showed no reluctance to introduce hearsay evidence (ἀκοῇ, 5.67), here, by labeling the arguments about his father hearsay, Eu. seeks to cast them into the area of uncertainty as opposed to clear knowledge.

**75** **κακῶς ἀκούοντα:** 3.4.4n. **τάχ' ἂν σφαλεῖην:** the conventional expression of fallibility again emphasizes that his father's affairs are remote and not clearly known.

**76** **τῶν Μυτιληναίων:** modern editors feel a need to put the genitive in the attributive position by writing either τὴν Μυτιληναίων (B) or τὴν τῶν Μυτιληναίων (G), but the rules governing this genitive are not hard and fast; Thucydides has τὴν τῶν Ἀργείων ἀπόστασιν (5.81.1) but τῶν πόλεων τὰς ἀποστάσεις (1.57.6). **εὐνοίαν:** the assertion of his father's goodwill toward Athens before the revolt is weakened by Eu.'s failure to mention any specific acts. **ἤμαρτε τῆς ὑμετέρας γνώμης** “fell short of your opinion,” i.e. “failed to meet your expectations.” Several editors delete τῆς . . . γνώμης, which is indeed harsh but is hard to explain as a gloss. Eu. carefully speaks of the revolt as not a crime, but an error in which his father was forced to participate along with everyone else; cf. the repeated ὅλη . . . ὅλης (also in 5.79).<sup>4</sup> His father could not have been a leader of the revolt or he would have been executed (5.77), but one suspects he was more sympathetic to it than Eu. allows. **ἐπ' ἐκείνῳ** “in his power” (LSJ s.v. ἐπὶ B.I.1.g). **εὐρόπως εἶχεν . . . ἀδυνάτως εἶχεν** “it was easy . . . it was impossible”; i.e. he could not easily leave Mytilene so as to show his goodwill toward Athens, and while he remained there he could not stand up against the anti-Athenian sentiment of the rest of the city. For οὔτε . . . δέ see *GP* 511. **εὐροπος** (“easily inclining,” i.e. “easy”) occurs only here and once in later Greek; some editors emend to the much more common εὐπορος. **ἐνέχυρα:** ἐνέχυρον usually means a “pledge” given as security; here it is used metaphorically.

**77** **ἄδειαν:** for the amnesty and conditions after the revolt see Thuc. 3.50 (cf. introduction to 5, above; E 113–15, with references to recent scholarship). **ἔδωκατε:** the earliest occurrence of this form (instead of ἔδοτε), which becomes common in later Greek. **τὴν σφετέραν αὐτῶν:** sc. γῆν. **τῷ ἐμῷ πατρί:** most editors delete these words as unnecessary. **οὐδ' ἦς . . . γεγένηται:** in apposition to τῶν δεόντων: (he has neglected) “no liturgy which the city needed.” **ληιτουργίας:**

see 2.2.12n. **χορηγίας**: see Ant. 6 *passim*; the reference is presumably to performances in Mytilene. **τέλη**: these regular “taxes,” as opposed to the **εἰσφοραί** (special levies) mentioned in 2.2.12, may have included the rent paid to the Athenian cleruchs (introduction to 5, above), a contribution to the annual tribute owed by Mytilene to Athens, and others (see E 114–15).

**78 Αἰνῶι**: 5.20n. **χωροφιλεῖ** “likes the country” (i.e. likes to live there), a rare compound, also found in a letter attributed to the early philosopher Thales (quoted by Diogenes Laertius 1.44); it is apparently equivalent to the more common **φιλοχωρεῖ**. **τοῦτο οὐκ**: sc. **ποιεῖ** (actually inserted by some editors), or **ἐστί** (“in this he is not”); the four participles (**ἀποστερῶν**, **γεγεννημένος**, **φεύγων**, **μισῶν**) express cause or motive. **ἀποστερῶν . . . ἑαυτὸν οὐδενός** “withdrawing himself from none.” **τῶν εἰς τὴν πόλιν** “his obligations to the city”; **πόλιν** is probably intended to suggest both Athens and Mytilene. **τὴν ἡπειρον**: 5.52n. **<τοὺς δέ>**: almost all editors recognize two problems in this passage: (a) **τοὺς μὲν** has no answering **δέ**, and (b) we know of treaties (**σύμβολα**) providing for litigation with Athenians for several allied cities, including Mytilene, but not for any enemy states. E defends the MS reading, arguing (a) there are examples of **μὲν** without **δέ** in A. (true, but none of **ὁ μὲν**, **ἡ μὲν**, etc.), and (b) Eu. may be referring to Athenian allies who still bore hostility toward Athens (but these would probably not be designated **πολέμιοι**). Reiske’s emendation solves both problems; Eu. is referring to two groups, those who left Mytilene and settled among Athens’ enemies in Asia Minor, and those who remained but pestered the Athenian cleruchs with litigation. **δίκας ἀπὸ ξυμβόλων**: a technical expression for “treaty cases,” or cases brought according to the provisions of a treaty between Athens and another city; the standard work on these is Gauthier (1972). **πληθος**: 5.8n. **οἷους ὑμεῖς**: sc. **μισοῦσι**. **συκοφάντας**: see introduction to 5, above. The word itself occurs only here and in 5.80, where it refers to the prosecution. It matters little whether or not Eu.’s father had in fact been subject to malicious prosecutions; any rich man could plausibly be said to hate sycophants.

**79 ἐπεῖδον** “they watched”; the present forms of the verb are provided by **ἐφοράω**. **ἀνάστατον** “laid waste”; an exaggeration, since only the walls of the city were taken down (Thuc. 3.50.1), but even this must have been a bitter sight. **χρημάτων γὰρ ἕνεκα**: Eu. now turns

his defense of his father into an attack on the prosecution. **παρασκευή:** lit. "preparation"; used by the orators of a "carefully contrived case" (e.g. Andoc. 1.1, with MacDowell's note). **τὰ συμβαλλόμενα** "things that contribute to." One expects Eu. to speak of general conditions favoring sycophants in Mytilene; instead he speaks only of himself and his father. **τῶν ἀλλοτρῶν ἐφίεσθαι** "to lay their hands on the possessions of others." **γέρων . . . ὥστ'** "too old to." **νεώτερος . . . πολλῶι:** as often, Eu. uses an imprecise expression; we can only guess at his exact age.

**80 μὴ διδάσκετε:** the idea that the jurors' verdict teaches a lesson for the future (sometimes called a prospective precedent) is common in the orators (e.g. Aes. 1.192) and is found as early as Aesch. *Eu.* 490 515. **πείθειν:** i.e. on<sup>r</sup> should avoid (φεύγειν) coming to court, where the jurors will award the verdict to the sycophant, and should instead "persuade" him to accept an out-of-court settlement (cf. 2.3.6n.). In such contexts **πείθειν** often implies the payment of money (Lys. 7.21); in some contexts (even here) one may wish to translate it as "bribe." **πλῆθος:** 5.8n. **πονηροί** "scoundrels," probably with class associations; presumably most sycophants, real or alleged, were from the lower class. **ὥσπερ καὶ τὸ δίκαιον ἔχει** "in accordance with justice too"; ἔχει virtually = "is."

#### 81 4 Signs from heaven

*Eu. adds an argument based on signs from the gods actually the absence of signs: in all his recent activities, religious and secular, no one has suffered from association with him. Therefore, he is not polluted and must be innocent. It is futile to seek in this argument the religious views of A. or the average juror; although Eu. urges the importance of these signs, the brevity and generality of his argument belies this claim. The argument might appeal to some jurors, and those who felt it silly would probably not let it affect their estimate of Eu.'s other arguments. Arguments based on pollution play a considerably larger role in the Tetralogies; see Introd. 7.*

**81 τεκμηρίων . . . σημείοις:** it is not clear that there is any significant difference here; cf. 1.10n. on τεκμήριον. **εἰς τὰ τοιαῦτα** "concerning such matters." **τεκμηραμένους** "drawing inferences from," with dative. **τὰ . . . κοινά** "public affairs," as opposed to τὰ . . . ἴδια (5.82). Scholars have argued that A. would not have made such a comment on Athenian public affairs in a speech written after the

Sicilian disaster; this would provide a *terminus ante quem* of 413. εἰς τὰ ἔξω: most editors since Bekker delete εἰς, producing a nice balance: τὰ εἰς . . . τὰ ἔξω; but B argues for keeping it; the balance is less elegant – τὰ εἰς τοὺς κινδύνους ἦκοντα . . . εἰς τὰ ἔξω τῶν κινδύνων = “those pertaining to dangers . . . those pertaining to things not in danger” – but perhaps more characteristic of A.

82 ἐπίστασθαι ὅτι . . . συναπώλεσαν . . . ἀπολομένους . . . ἐγένοντο: three different constructions all technically dependent on ἐπίστασθαι *anacoluthon*, 5.12n., but the sense is clear throughout. The descriptions are filled out with generalities e.g. ὁσίως διακειμένους τὰ πρὸς τοὺς θεούς. μή: with καθαροί = “impure” (cf. S 2735. καθαροὶ χεῖρας: since all five other occurrences of this expression in the orators including 5.11 above include the article with χεῖρας, most editors add the article here; but Herodotus has οὐ καθαρὸς χεῖρας 1.35, describing Adrastus, and A. should not be held to consistency in such matters cf. 1.29n. on σφετέρους. ἱεροῖς: 1.16n. οὐχ ὄσιοι ὄντες, καὶ διακωλύοντες “it became apparent that they were unholy and were preventing”; many editors delete the καὶ and understand “were unholy because they were preventing.”

83 τοῦτοις: with ἐναντία. ἐχρήσαντο “experienced” 1.8n. οὐκ ἔστιν ὅπου οὐχί: both negatives have full force: “nowhere was it not.” τούτων μάρτυρες “Witnesses please.” Almost all editors assume a lacuna and many supply a few words to make a complete sentence, such as usually introduces witnesses but cf. 5.61; but these words are comprehensible by themselves and A. may have intended them as an informal variant on the usual practice.

84 ἐπίσταμαι κτλ.: another hypothetical role-reversal 1.11n.; cf. 5.38, 5.74, 6.27-8. The wording in 6.28 is especially close to that here; the differences are attributable to differences in context or involve minor variations e.g. ψευδῇ vs. οὐκ ἀληθῇ. τὰ σημεῖα . . . θεῶν: in apposition to ταύτην; this phrase can easily be replaced in a different context cf. 6.28. καὶ οἱ μὲν ἄλλοι κτλ.: the exact same words with a minor change in word order in 6.47. In both speeches the sentence fits the context foreshadowing the transition to the epilogue; here it echoes a charge made in the prologue 5.3 that the prosecution are relying on λόγοι, not ἔργα cf. 3.3.1n. .



## 85–96 Epilogue

*The epilogue is devoted largely to two points: criticism of the prosecution's use of ἀπαγωγή instead of a δίκη φόνου (already argued in 5.8–19), and an appeal to take more time in deciding by acquitting Eu. in this trial, thereby allowing the case to be tried later in a proper δίκη φόνου (already suggested in 5.16). This strategy offers the jurors an easy way out if they feel the least bit uncomfortable convicting him. Eu. does not remind the jurors, of course, though the prosecution probably emphasized the point, that if he is acquitted and charged in a δίκη φόνου, he will be free to leave Athens before the trial (or before his second speech in the trial); so an acquittal here would not, in fact, necessarily result in a second trial.*

**85** δέομαι: most editors who keep οἶμαι assume a lacuna, except G, who understands an εἶναι with ὑμῶν and translates “I think it is your duty”; but the ellipsis is very harsh. ὠμόσσετε: 5.8n. ὅν ἐπεὶ . . . διαψηφίσασθαι. οὕς: the antecedent (τοῖς νόμοις) is postponed (cf. *Intro.* 8 iv 3). ἀπήχθην “I was arrested” (by ἀπαγωγή). ἔνοχος: 1.11n. ἄγών μοι νόμιμος: i.e. a δίκη φόνου. δύο: sc. ἄγῶνες. οὐ δῆπου “it is surely not the case that”; the force of the negative carries through to προκαταγνώσσεσθε.

**86** μὴ ὑμεῖς γε: omission of the verb in negative commands is common in drama (LSJ s.v. μὴ A.8); cf. *Dem.* 19.242 μὴ σύ γε, ἀλλά. τῷ χρόνῳ: cf. 5.71 οὕτως ἀγαθὸν ἐστὶ μετὰ τοῦ χρόνου βασανίζειν τὰ πράγματα. ἀκριβειαν: 3.2.1n. ἡξιῶν “I should think”; cf. 5.1n. ὅν ἐβουλόμην (cf. *Lys.* 12.37 ἡξιῶν ἱκανὰ εἶναι τὰ κατηγορημένα); both εἶναι and ἐλέγχεσθαι depend on it. ἐγιγνώσκετο “would be decided”; some translate “would be understood,” but this has less point in this context (and cf. 5.87 γνῶσθεῖσα). σύμμαχοι: 5.37n.

**87–9** are repeated with some changes in 6.3–6 and are therefore deleted by some editors; but there is no reason why A. could not adapt generalized sentiments such as these for use in two different speeches, especially for different courts.

**87** φόνου . . . δίκη: as commentators note, this is not strictly a δίκη φόνου. But Eu. may here be referring to homicide cases in general, not a specific procedure, and in this sense both trials he has been discussing are homicide cases. ὄντα: sc. με. χρῆσθαι (*bis*) “submit to” (cf. 1.8n.). οὐδεὶς ἂν τολμήσειεν κτλ.: the falseness of this assertion is obvious. The one example we have of someone who was confident of

his own innocence submitting to the guilty verdict – that of Socrates – is clearly presented (in the *Crito*, at least) as wholly atypical. It is not clear whether A. expects the jurors to believe the claims, to be skeptical of but nonetheless impressed by them, or perhaps to be amused by Eu.’s naive piety. In Plato’s *Gorgias* 480b–e Socrates proposes a similar view, arguing that as commonly employed forensic rhetoric is unnecessary because people who commit crimes should denounce themselves and accept their punishment voluntarily; but Polus’ response that this is absurd (ἄτοπα) may suggest that even Plato does not seriously propose this (though in the *Laws* he comes close to such a position). νικᾶσθαι: lit. “be conquered by”; with a genitive of comparison = “yield to.” αὐτοῦ τε: for single τε see 1.9n. τοῦ ἀληθοῦς κτλ.: in 6.4 the speaker cites the specific example of a man who kills his own slave who has no “avenger” (i.e. no one to prosecute the killer), but here Eu. speaks more generally of the murder of anyone without relatives to prosecute the killer (one such case is discussed in Dem. 47.68–73). In such cases the killer would probably not face legal punishment but would normally undergo religious purification.

88 αἱ διωμοσάι: this oath (5.11n.), the sacrifices and the proclamation are specific to a δίκη φόνου. τόμια “cut pieces,” i.e. the pieces of an animal that has been sacrificed (cf. 5.12 τῶν σφαγίων). αἱ προρρήσεις: the preliminary proclamation made by the victim’s relatives (Intro. 4). γιγνώσκεσθαι . . . γνωσθέντα: 5.86n.

89 αἰτίας: 5.25n. τις ἀνενεγκὼν τὴν ἀμαρτίαν ἀπολύσαιτο “someone could have your mistake undone by referring” (the verdict elsewhere); τις designates any litigant who is the victim of the jurors’ mistake; ἀπολύσαιτο is a “causative” middle (S 1725). A litigant could not “refer” or “appeal” an Athenian verdict to any higher authority. Some critics (G, M, E) take τις as a juror, who could not escape from his mistake by referring it elsewhere, but Eu. is emphasizing the effect a mistake would have on the litigant, not the jurors (or else he would say something specific about the harm a wrong verdict would cause them).

90 διομοσαμένους: 5.11n. περὶ αὐτοῦ τοῦ πράγματος: in a δίκη φόνου the litigants were required to stick to the point; cf. 5.11 ἢ μὴν μὴ ἄλλα κατηγορήσῃν ἐμοῦ ἢ εἰς αὐτὸν τὸν φόνον. κάκει: i.e. at the Areopagus, where the δίκη φόνου would be tried. Eu. uses ὑμεῖς loosely in the sense of “you Athenians,” glossing over the fact that the jurors

would in fact be different (Introd. 4); he does not want to suggest that he might have a more favorable hearing in that court (5.8–19n.).  
**χρησθαι**: sc. μοι.

**91 ἀδικῶς ἀπολῦσαι . . . δικάως ἀπολέσαι**: this kind of word-play is generally avoided in the main body of the speech. **ἀσέβημα**: the idea that a mistaken prosecution is a sin occurs several times in the Tetralogies (e.g. 4.1.4), where it is associated with spirits of vengeance, and more generally with the notion of pollution (Introd. 7). That pollution is not mentioned here is another indication that it is of relatively little interest in real cases at this time (cf. 5.81–4n.). **ἐν ᾧ** = ἐν τούτῳ. **ἀνήκεστον** “irremediable”; by A.’s time the word may have lost its metaphorical sense of “incurable” (Garvie on Aesch. *Ch.* 516). For the idea, cf. 2.4.12 ἀνίατος γὰρ ἡ μετάνοια τῶν τοιούτων ἐστίν, and Gorgias, *Pal.* 34, which echoes some of the wording here: (one should exercise caution) τὰ δὲ ἀνήκεστα τῶν ἀκεστῶν ἐτι μᾶλλον ταῦτα γὰρ προνοήσασι μὲν δυνατά, μετανοήσασι δὲ ἀνίατα. **ἀκεστῶι**: almost all editors accept Stephanus’ correction; the MS reading makes no sense in the context. **χρησαμένους**: 1.8n. **μεταγνοῦς . . . βουλεύσαιτο**: the subject is essentially the same as that of the plural participles that precede and follow (i.e. a juror). Many editors add *τις* before ὁρθῶς to help clarify the sense, but the awkwardness of switching from plural to singular and back remains. **πλέον βλάβος κτλ.**: Eu. does not explain this assertion, hoping it will pass without question. **ἐξαπατηθεῖσι**: i.e. deceived by the prosecution (as in this case). **χρή**: all editors since B change this to the imperfect *χρῆν*, but the present makes good sense (deceivers ought to be punished), and makes clearer an allusion to the prosecution in the present case.

**92 τὰ μὲν ἀκούσια . . . συγγνώμην**: 4.1.6n. **τὸ δὲ ἐκούσιον τῆς γνώμης**: the notion of an “intentional error” seems to mean an error committed after deliberation (cf. ὧν βουλήν ποιοῖτο). For the opposition between *τύχη* and *γνώμη*, cf. Isoc. 3.47 οἱ μὲν γὰρ τύχῃ καὶ μὴ γνώμῃ σωφρονοῦντες. **τῇ ψήφῳ**: Eu. links the prosecution’s deliberately false case closely with the jurors’ vote; otherwise the verdict might be thought to be an unintentional error.

**93 εἰ τι ξυνήδη ἐμαυτῶι**: cf. 5.52. The argument that voluntarily facing trial is a sign of innocence is a *topos*; it is rejected by e.g. Lysurgus (1.90) on the ground that every thief and temple-robber makes this claim. **πιστεύων τῶι δικάῳι**: sc. ἤλθον. Eu. gives a different (not

inconsistent) reason for coming to Athens in 5.13. οὐ πλέονος οὐδέν ἐστιν ἄξιον “than which [genitive of comparison] nothing is worth more.” συναγωνίζεσθαι “for assisting (someone) in a trial”; the language is becoming more metaphorical. μηδέν . . . μήτ’: because single μήτε is rare in prose (cf. 1.9n. on single τε), most modern editors emend it to μηδ’, (not E), but this is unnecessary; see *GP* 509-10. ἀπειρηκός “when it has given up,” perfect participle (ἀπείπων). συνεξέσωσεν: gnomic aorist. The verb is a very rare double compound, found also in Sophocles (*OC* 566) and Menander (*Dys.* 753). διὰ τὸ μὴ ξυνειδέναι ἑαυτῇ “because it has nothing on its conscience” (i.e. has a clean conscience). συνοῖδα ἑμαυτῶι (“I know in my conscience”) is frequently followed by expressions of wrongdoing (e.g. that I have done something wrong); it thus comes to mean “I have a guilty conscience” even without further supplement. τοῦτο αὐτό: the ψυχή. προ-απολείπει “leaves him earlier,” another rare double compound. The word order is such that τοῦ σώματος ισχύοντος would be felt as a genitive absolute rather than a genitive of comparison with προ- (as LSJ have it). οἱ: 1.16n. ταύτην: i.e. the guilty conscience, which the spirit takes to be punishment for the man’s crime. The pronoun suggests A. feels a need for a noun to express the idea of a conscience, but as G notes, the first occurrence of σύνεσις in this sense is Euripides’ *Or.* 396, produced in 408 (perhaps a decade after this speech). That the ψυχή is said to “regard” this conscience as something external to it is further evidence that ψυχή is closer to “life force” or “spirit,” than to “soul” (2.4.5n.).

**94** πείθεσθαι τὰ μὴ δίκαια “be persuaded of what is unjust,” an internal accusative (*S* 1574), more often found with a neuter pronoun (6.47 ἅπερ αὐτοὶ σφᾶς αὐτοὺς οὐκ ἔπεισαν, ταῦθ’ ὑμᾶς ἀξιοῦσι πείσαι). τοῦ δὲ . . . ἐξεργάσασθαι: with ἴσας. ὁ διαφέρων “separating” (this trial from my second one). τῶν ἐπειγομένων “for those in a hurry”; the genitive denotes loosely the person whose concern something is (cf. *S* 1304-5). γνωρισταὶ . . . τῆς δίκης . . . δικασταὶ τῶν μαρτύρων . . . δοξασταὶ . . . κριταὶ τῶν ἀληθῶν “fact finders in this case . . . judges of the testimony of witnesses . . . holders of opinions . . . judges of the truth.” The complex nexus of parallels and antitheses reinforces the seriousness and importance of the second trial in comparison with this one. Now the jurors can only learn facts and form opinions; then they will assess the testimony of witnesses and judge the ultimate truth of the

case. γνωρισταί and δοξασταί are both rare, especially the former, which occurs only here in classical Greek. Some editors delete τῶν μαρτύρων, but the words have a point (which is picked up by καταμαρτυρῆσαι in the next sentence) and it is difficult to see how they could have come into the text at a later time. For δοξασταί and κριταί, see Antisthenes, *Ajax* 8 οὐ κριταί τῶν λεγομένων ἀλλὰ δοξασταί καθήσθε (spoken to the jurors with scorn).

**95 ῥᾷστον δέ τοι:** Dobree's emendation of the meaningless reading of *A* is accepted by all modern editors. τὸ παραχρήμα μόνον "only for a moment," with πείσωσιν. Others take τὸ παραχρήμα as "on the spot" with ἀποκτεῖναι, but there is no possibility of summary execution in homicide cases. τί . . . πλέον "what . . . benefit?" Forensic orators (and others) generally emphasize that a dead man needs revenge and benefits from it, but when it suits their need, orators are quite capable of arguing that revenge does not help the dead (cf. Andoc. 1.7, Lys. 12.88, 19.4).

**96 ὑμεῖς . . . διαγνώσεσθε:** 5.90n. on κακεῖ. οὐδείς λόγος: cf. 3.2.4. παρείς: some change this to the present παριείς because of ἀποστερῶν, but such consistency cannot be forced on *A*. τούτων: i.e. τὸ ὑμέτερον εὐσεβές, τὸ δίκαιον and τῶι ὑμετέρῳ ὅρκῳ.

## 6. On the chorus boy

*Background.* The speech was delivered by an unknown Athenian (cf. 6.12n. on Φανόστρατον), who in 419 (see 6.45n. for the date) was assigned an important (and expensive) public duty or liturgy (2.2.12n. on ἐκ τῶν προειργασμένων) the training of a boys' chorus to compete at the Thargelia, a festival held in the late Spring. The date can be established from our knowledge of the Athenian calendar (see 6.45n.) and is accepted by most scholars, though Vollgraff (1948: 258–63) argues that the MS numbers are unreliable and Ba leaves the question undecided.

The χορηγός or chorus producer (henceforth Ch.) recruited the number of boys needed for the chorus (probably fifty) from various families and set aside room in his house for them to train. This χορηγός was busy with his other affairs, and so he assigned his son-in-law and three other men to supervise the training and attend to whatever needs might arise. One day when Ch. was not at home, one of the chorus-

boys named Diodotus was given a drug to drink, perhaps to remedy a sore throat; instead it caused his death. Two days after Diodotus' death his brother Philocrates formally accused Ch. of "planning" an unintentional homicide, but the *basileus*, the official who supervised homicide cases, refused to accept the suit. Almost two months later a new *basileus* took office, and Philocrates submitted his case to this official about six weeks after that. This time it was accepted, leading to a trial at the Palladion, the court that heard cases of unintentional homicide. The penalty for unintentional homicide was exile, perhaps for a limited period (MacDowell 1963: 120–3). We do not know whether anyone who was more directly involved in the death was prosecuted.

Clearly Ch. is a wealthy citizen who is active in public life. He speaks of suits he has brought against other prominent Athenians and alleges that Philocrates is bringing this case because he has been bribed by Ch.'s political enemies, who wish to thwart Ch.'s own suits against them. Thus this homicide case appears to be just one in a series of suits and counter-suits that have occupied Ch. for several years, illustrating Todd's observation (1993: 153) that "a lot of what occurs in the orators is not so much dispute settlement as dispute perpetuation." In such circumstances, it would have mattered little to the prosecution if their chances of securing a conviction were quite small; anyone accused of homicide was barred from public places, including the law courts, during the trial, and Ch. thus had to withdraw from the case he was about to bring against his opponents.

*The case.* Ch. advances three main lines of argument. First he argues that he did everything required of him and more in overseeing the chorus's training, and he provides details to show that all matters were handled properly. Second, he maintains that he had nothing to do with Diodotus' death and was not even present when he died. Third, he claims that the prosecution only brought this case against him because they were bribed by his political enemies, whose motive was to force him to abandon his own legal attacks on them. In support of this claim he argues that the victim's brother was on friendly terms with him until Ch. began exposing the wrongdoing of his opponents. The details and supporting arguments Ch. provides for these points suggest that they all contain a considerable degree of truth. Nonetheless, there are a

number of ways the prosecution could attack these claims, and their main arguments probably focused on some different issues.

*The prosecution's case.* The prosecution probably did not challenge Ch.'s claim that he was not present at Diodotus' death, since this fact could easily have been tested and Ch. claims he had many witnesses to it. They rejected Ch.'s challenge to interrogate his slaves on this point, and although he makes much of this rejection, they may have ignored it in their speech. They may have attacked Ch., however, on his overall supervision of the training. Although he mentions many things he did correctly, they may have produced evidence of improper actions or neglect; for example, they may have alleged mistreatment of one of the other boys and presented testimony from his family, or they may have attacked the qualifications of Ch.'s son-in-law or his other assistants. The prosecution could also have responded in advance to Ch.'s argument, which they could anticipate, that they were motivated only by political or financial considerations. They may perhaps have alleged political or financial wrongdoing on the part of Ch. or argued that he had ulterior motives for his suits against his enemies. They may also have claimed that he colluded with the first *basileus* to prevent the case being tried right away, and that the settlement he then arranged with them was only a cover giving him time to prepare a new prosecution of his enemies. They could explain the long delay in bringing the case the second time by saying that, although upset over Diodotus' death, they were trying to be conciliatory and so they allowed Ch. to go unpunished; but when he then violated the spirit of the reconciliation by launching a new attack on them, they could no longer refrain from prosecution.

In addition to these preemptive responses, the main burden of the prosecution's case probably rested on the general issue of overall responsibility for the death. Ch. (they could say) had assumed an important public duty and had thus accepted responsibility for the chorus' welfare. Whatever measures he may have taken, Diodotus' death shows that he did not exercise proper supervision. Had he not been so busy pursuing private grudges and minding other people's business, he could have prevented the carelessness and mismanagement that led to Diodotus' death. He is thus guilty as the "planner" (much like the step-mother in Ant. 1), even though the death was not intentional and he did

not actually administer the drug himself. In addition the prosecution probably made a highly emotional plea. One can imagine them relating in grim detail the awful circumstances of the death – how the poor family of upright citizens was deprived of this outstanding young boy, stricken dead while he was fulfilling an important civic duty, etc. They could also have urged the jurors to consider the threat this lamentable event posed to everyone's (i.e., every juror's) child, and indeed to all civic institutions, for who would now allow his child or relative to volunteer if they were going to be supervised by irresponsible men like Ch.? Arguments along these lines could have a powerful impact.

*The charge: "planning" an unintentional homicide.* In 6.16 Ch. cites what appear to be the actual words of the oath the prosecution swore at the beginning of this case: ἀποκτεῖναι με Διόδοτον βουλευσάντα τὸν θάνατον, and he later tells us that "the prosecution agree that Diodotus' death did not occur intentionally or with premeditation" (6.19 μὴ ἐκ προνοίας μηδ' ἐκ παρασκευῆς); the charge in this case, therefore, was "planning an unintentional homicide," an expression that on the surface seems self-contradictory (on "planning" in Athenian law see Gagarin 1990b: esp. 95–6 on Ant. 6). As early as Draco (*IG* 1<sup>3</sup> 104, 12–13; cf. Andoc. 1.94), the planner (τὸν βουλευσάντα) was considered just as responsible legally for a homicide as the actual killer; but this provision was probably intended and used primarily for the planner of an intentional homicide. Like the killer the planner was normally tried for homicide by a regular δίκη φόνου, as for example in Ant. 1 (e.g. 1.26 ἐκουσίως καὶ βουλευσάσα τὸν θάνατον).

Ant. 6 is the only case we know where the charge is planning an unintentional homicide; if there were any other such cases, they were probably very rare. Any attempt to determine the precise meaning of this charge or to set clear guidelines for its use is futile. We do not know, and the Athenians themselves probably could not say, whether someone was considered legally liable for the actions of his subordinates. Rules for such cases could only be inferred from regular practice, not from the outcome (if we knew it) of one or two cases. Athenian law allowed considerable leeway in adapting existing procedures to different circumstances, as, for example, in Ant. 5, where the prosecution used a different procedure for homicide, apparently for the first time. The officials overseeing a procedure apparently did not hold would-be plain-



tiffs to strict interpretation of the law, which would have been difficult in any case given the generality of the language of many statutes. In this case the charge of planning an unintentional homicide was plausible enough for a *basileus* to allow the case to proceed; Ch. takes the accusation seriously and implies that such a charge would be legitimate if he had been more involved in the boy's supervision. All we can say about this case is that the jurors probably based their decision on the entire set of arguments presented by each side, not just on this one issue.

*The role of the basileus.* The official in charge of homicide cases was the *basileus* ("king"), one of the nine Athenian archons, whose one-year terms were non-renewable. His duties were administrative and probably included making the initial proclamation, arranging the trial, holding preliminary hearings (*prodikasiai*), running the trial itself, and perhaps declaring the verdict (*AP* 57; MacDowell 1963: 34–8). These duties carry little power in themselves, but a *basileus* might still exercise significant influence on a case (though scholars disagree on how much; see further Gagarin forthcoming).

When Philocrates' accusation was first presented, the *basileus* rejected it on the ground that it was necessary to hold three *prodikasiai* in three different months (6.42) and his term of office would end in less than two months. Philocrates protested (6.41–2), but did not accuse the *basileus* of misconduct at the formal assessment hearing which every official underwent at the end of his term. Six weeks into the next year Philocrates presented the case again and the new *basileus* accepted it. The first *basileus* probably had the legal right to reject the case (he apparently pointed to the wording of the law), but it is not clear that he was required to reject it; the law may have said only that three *prodikasiai* were required, not that they needed to be held by the same *basileus*. If so, he may have rejected the charge out of political friendship with Ch., as the prosecution probably argued. He may also have questioned the unusual, perhaps unprecedented, charge of unintentional homicide by planning, but if he had openly expressed doubts about the charge, one might expect Ch. to cite such doubts in his defense.

*Assessment.* Each side probably presented a strong case. The prosecution could cite the letter of the law, arguing that as χορηγός Ch. was responsible for the actions of his subordinates and that the general instruc-

tions he gave them led to Diodotus' death; but they probably had few witnesses on their side, and unless they could introduce evidence of significant mismanagement besides this accidental death, the strength of their case would rest primarily on its emotional appeal, which could have been powerful, and their criticism of Ch. for minding other people's affairs while neglecting his duties. To imagine a modern analogy, if a child in a day-care center dies from being given the wrong drug for a fever, the owner of the center might be held responsible even if she were out of town that day and the drug was given by an employee without her knowledge.

In his defense Ch. presents strong arguments on all three of his main points, and the jurors might well wonder whether someone who had taken such thorough precautions to ensure that the boys would be well cared for and who was not even in the house at the time could be held liable for an accidental death. The picture he paints of his opponents' political opportunism and Philocrates' vacillation, moreover, would raise strong doubts about whether this case should have been brought in the first place. All in all the speech is a very effective response to the challenge of a novel and complex situation.

One factor that is difficult to assess is the liability of Ch.'s assistants. In arguing that he was not involved in Diodotus' death, Ch. does not seek to blame his subordinates, some of whom must have been directly involved; rather he blames τύχη. The prosecution may have brought a separate case against the subordinates, but this would not prevent their also charging Ch. Conviction of a subordinate, however, might weaken the emotional argument that Diodotus' death must be avenged, and if their real motive in prosecuting was to bar Ch. from the law courts, they may well have ignored his subordinates.

*Outline.* The prologue (1–6) is followed by a preliminary attack on the prosecution's case (7–10). The narration of events leading up to the death (11–14) leads to arguments that Ch. is not responsible for it (15–19), which is followed by a further narrative (20–2) and by Ch.'s challenge that the prosecution interrogate his slaves (23–32). Narrative and argument are then mixed together in the discussion of the first *basileus*' rejection of the case and Philocrates' second, successful attempt to prosecute (33–50). A very brief epilogue (51) concludes the speech.

## 1-6 Prologue

**1** **Ἡδιστον:** sc. ἐστίν. **μέν:** 1.1n. **κίνδυνον:** often used of the “risk” of being convicted in court. For the *topos* that avoiding litigation is a virtue, cf. 3.2.1 2, where the defendant also laments the συμφορά and τύχη that have forced him (ἡναγκάσθην) into court. **περὶ τοῦ σώματος** probably = “life-threatening”; so in 5.95 ἅμα τῷ σώματι, though ψυχή can also be used (e.g. 2.1.4). **ὑπάρχειν:** 5.4n. The infinitive depends on εὔξαιτο: if one cannot have the best situation (ἡδιστον), then one can wish at least (γοῦν) for a clear conscience even if some misfortune strikes (εἴ τις καὶ συμφορὰ γίγνοιτο). **ἐαυτῷ συνειδέναι:** see 5.93n. on διὰ τὸ μὴ ξυνειδέναι ἐαυτῇ.

**2** is nearly identical to 5.14, with only minor changes in wording. **τούτων:** i.e. the plaintiffs (1.4n. on οὔτοι).

**3 [αὐτοῦ]:** alone among modern editors Ba defends the MS reading, citing Wilamowitz (1900) 413 (whose views on the text of A. often fall short of the high standard he displays on other authors), but there is no other example of ὁ τοιοῦτος αὐτός in Greek, and it is not easy to see what sense it might have. **μία δίκη** “one verdict.” Since there was no process of appeal in Athenian law, all cases had only one verdict, but in other matters a litigant could often bring a new suit on a related matter, effectively reopening the case. Homicide cases left no such opportunity. **μὴ ὀρθῶς καταγνωσθεῖσα κτλ.:** much of the text from here to the end of 6.6 also occurs in 5.87–9; there are significant differences, however, indicating that the thought has been specifically adapted to the context of 6.3–6.

**4 εἶργεσθαι πόλεως ἱερῶν ἀγώνων θυσίων:** in a long series of nouns asyndeton (as here) is more common than not (*GP* xlv). Banishment from public places (see 3.1.2n. on ὧν ὁ νόμος εἶργει) is not mentioned in 5.87, but its relevance to this case is clear if we understand ἀγώνων as “trials” rather than “games.” It is true that a provision in Draco’s law specifically protects a killer as long as he stays away from athletic contests (ἄθλων), among other things (Dem. 23.37; cf. 23.40). But in A. ἀγών always means “trial” (1.2n. on ἀγῶνα), and there would be no relevance in the mention of athletic contests here. **τοσαύτην . . . πράξειν:** in 5.87 A. speaks more generally of killing someone who has no relatives to prosecute the killer; killing one’s own slave (for which see 5.47n.) would be one example of this. **καὶ ἂν τις κτείνῃ τινά:** A. uses

the more archaic κτείνω instead of the normal Attic ἀποκτείνω three times: here the language clearly echoes that of Draco's law (*IG*1<sup>3</sup> 104, 11 καὶ ἔαν μὴ ἐκ προνοίας κτείνῃ τις τινα); in 5.11 and 5.57 it may echo the words of an oath. τὸ νομιζόμενον κτλ.: these steps satisfy moral and religious feelings; the law, evidently, is not involved as long as no one prosecutes. ἄριστα πράξειν "he will fare best"; his concern is with his future standing in the eyes of the gods and the community.

5–6 καὶ οὐδεὶς . . . αἰτίαν ἀπολύσαιτο: repeated nearly verbatim in 5.87–9; the most notable change is αἰτίαν here instead of ἁμαρτίαν.

6 αὐτῶν δὲ τούτων: 1.2n. <αἰτίαςασθαι . . . ὀρθῶς>: the supplement (from 5.88) is necessary for the sense and is accepted by all editors; its omission was clearly caused by the repeated μὴ ὀρθῶς. αἰτίαισι: 5.25n. νῦν: deleted by most editors on the ground it is not in 5.89.

### 7–10 Preliminary attack

*Ch. now turns to his specific case. These preliminary remarks, unlike those in 1.5–13 and 5.8–19, contain no argument, only an attack on the prosecution's methods and motives. Ch.'s main objection is that they are attacking him for reasons other than the boy's death. He makes much of their disregard for the rule that in a homicide case one was supposed to stick to the point, arguing that they have devoted much of their case to his public activities rather than to the specific charge of homicide.*

7 διώξιν designates the entire prosecution, as opposed to κατηγορία, which may refer only to the accusation or the accuser's speech (though it may also designate the prosecution's entire case). εὐσεβείας . . . δικαίου: for the pair cf. 6.51, where Ch. praises the jurors as εὐσεβεστάτους . . . καὶ δικαιοτάτους (cf. 3.2.12). διαβάλλοντες: many editors change this to the aorist διαβαλόντες to produce a parallel construction, but this is not a good reason for emendation in A. (cf. 2.4.7n. on ἀκινδύνως τε οὐτός γε).

8 πρῶτον . . . ἔπειτα: the speech does not divide neatly into two parts, but some of 6.20–32 and all of 6.33–50 concern events after Diodotus' death that are not strictly relevant. περὶ αὐτοῦ τοῦ πράγματος: on sticking to the point in a homicide case, see *Introd.* 4, 6.9, 5.11n. on ἡ μήν. κρίνεσθαι: many editors (not Th or Ba) accept Reiske's ἀποκρίνεσθαι, which produces a smoother train of thought, but κρίνεσθαι yields an acceptable sense: "I think I should first be judged on

the issue and should relate what happened.” ἐὰν ὑμῖν ἡδομένοις “if it please you”; sc. ἤ (which Ba adds in his text). αὐτά: i.e. the further accusations. τοῖς ἐπηρεάζουσιν “those who insult me.”

9 ἐπεὶ: 5.50n. ἵνα “when,” though a local sense is also possible. ἐξῆν αὐτοῖς: Ch. is probably referring to the δοκιμασία (“evaluation”) he and the other members of the Council (and other magistrates) had recently faced before assuming office. Any citizen could challenge an elected official on various grounds, and four speeches from such challenges survive (Lys. 16, 25, 26, 31); see Hansen (1991) 218 20. It was understood that citizens might challenge their political enemies at such times, thereby achieving private satisfaction as well as doing public good. αὐτῶν: sc. “my accusers”; a mild *hyperbaton*. τόνδε τὸν ἄνδρα: i.e. the speaker himself. τὸ πλῆθος τὸ ὑμέτερον has political overtones (5.8n.); as a rich man, Ch. could easily be suspected of anti-democratic activities. συντιθέντες: 5.25n. οἱ συνέθεσαν ταῦτα καὶ ἐμχανήσαντο. τὰ εἰς τὴν πόλιν “my public activities.” τῇ μὲν πόλει . . . αὐτοὶ δέ: neither the syntax nor the thought is quite parallel, but the essential point (repeated several times in 6.9–10) is that public wrongs should not be prosecuted as a private crime, which homicide was considered to be. Plaintiffs sometimes argue that certain wrongs are both private and public (e.g. Lys. 12.2), but they would have difficulty doing so in this case. More likely they added accusations of Ch.’s alleged public crimes to their account of the homicide. εἴπερ: this reading is accepted by all modern editors except Ba (following Vollgraff 1948), who retains the MS reading, but none of the examples of repeated μὲν in GP 384 6 is at all similar. δίκην λαμβάνειν: cf. 1.23 δίκην μὴ δῶι.

10 οὗ “where.” ἐν πράγματι τοιούτῳ: i.e. in a homicide case. σχεδόν adds a touch of modesty (“I dare say,” LSJ s.v. IV.2). ὅσια καὶ δίκαια: 2.2.12n. οἱ φιλοθύτην.

### 11–14 The narrative

*As usual in a defense speech, the narrative is brief and selective. Ch. focuses only on his preparations for and overall supervision of the boys’ training; we learn nothing of how Diodotus came to drink the drug, who prepared or administered it, or just how he died, and speculation on these points is futile. The prosecution presumably gave a more extensive (though perhaps equally selective) account.*

*In Ch.'s remarks we get a glimpse of the political background of the speech (see Heitsch 1980: 24-30 for a detailed examination of the evidence); Ch.'s opponents were evidently prominent public figures, and this and the other legal contests mentioned probably formed part of a continuing political struggle.*

**11 κατεστάθην εἰς** "was appointed"; cf. 1.1n. **οὐ καταστῆναι**. The rules and procedures regarding the appointment of a χορηγός, the recruitment of chorus members and related matters are discussed by MacDowell (1989). Appointment as a χορηγός required considerable expense; one speaker (Lys. 21.4) says he spent more than 15 minas (c. \$75,000) on a boys' chorus in 404 (and 20 minas on a men's chorus for the Thargelia).

**Θαργήλια:** a festival honoring Apollo on days 6 and 7 of the month Thargelion, the next to last month in the Attic year (roughly equivalent to May). Five choruses of boys and five of men competed at the Thargelia.

**ἔλαχον Παντακλέα διδάσκαλον** "I was allotted Pantacles as my poet" (διδάσκαλος is the regular term for a choral or dramatic poet). Each chorus was given a poet to compose the hymn it would sing at the festival. The dithyrambic poet Pantacles is known from several contemporary inscriptions commemorating victories (Heitsch 1980: 49-50, n.14).

**Κεκροπίδα φυλήν:** for this competition the ten Athenian tribes were divided into five pairs; Ch. could recruit boys from either his own (the Erechtheid) or the Cecropid tribe.

**[τουτέστι τῇ Ἐρεχθίδι]:** an obvious intrusive gloss (1.17n. **οὐ τῆς τούτου μητρός**) based on information in 6.13. **διδασκαλεῖον** "instruction room."

**ἄν:** Bekker's supplement is necessary for the sense.

**Διονυσίοις:** Ch. reminds the jurors that he has been χορηγός for the Dionysia (which would have been a significant honor), the annual festival held in March where the most important, and most expensive, dramatic and choral productions were presented, including most tragedies. Since these duties were normally rotated, Ch. probably undertook this service at the Dionysia several years earlier.

**ζημιώσας . . . ἐνέχυρα βίαι φέρων:** the χορηγός had the power to fine someone who would not allow his son to be enlisted in the chorus. A parent with a valid excuse was required to post surety, which would be forfeited if the excuse proved invalid. The recruitment of chorus members is thoroughly discussed by MacDowell (1989) 69-72. **ἐκόντες καὶ βουλόμενοι:** *pleonasm* (1.20n.) for emphasis; both words mean "willingly."

**12 ἐτύγχανε:** Ch. hints at the role of τύχη (6.15; cf. 5.20-1).

**πράγματα** "law suits," not more generally (as sometimes) "business."  
**Ἀριστίωνα:** probably the Aristion who was archon in 421/0.  
**Φιλῖνον:** a fairly important political figure at the time (Raubitschek 1954); we have four very small fragments of a speech A. wrote against Philinus (61 4 Th; 48 51 Mor), perhaps for this case. **εἰσήγγειλα:** the procedure of *eisangelia* was used for crimes against the state, such as treason (MacDowell 1978: 183 6, Hansen 1975); cases of *eisangelia* were brought to the Council (as here; cf. 6.35) or the Assembly. We are later told (6.35 8) that Ch. secured a conviction. **ἀποδείξαι:** continues the sense of ἃ ἐγὼ περὶ πολλοῦ ἐποιοῦμην: "(a suit) that I considered very important . . . namely, that I demonstrate." **Φανόστρατον:** the identification of this Phanostratus and his father-in-law (the speaker) proposed by Raubitschek (1954: 69 70, n.10) is rejected by Davies (1971: 530 1). **δημότην:** the implication is that members of the same deme would *ipso facto* have greater respect for one another, though certainly this was not always the case. **ἄριστα:** most editors (not Ba, tB) add ὥς before ἄριστα, but this is unnecessary. Elsewhere A. always uses ἄριστα without ὥς (four times) except in the expression ὥς ἄριστα ἐδυνάμην (twice in 6.11); and loss of ὥς here would be hard to explain paleographically.

**13 δύο ἀνδρας . . . ἔτι δὲ τέταρτον:** sc. κατέστησα. We know nothing further about Ameinias or Philippus. The third man (counting Phanostratus as the first) is not named; most editors (not tB) postulate a lacuna, on the assumption that his name was originally given, but A. may have felt his name was not important, or he may have had other reasons for not naming him. **ἐκάστοτε:** choruses were normally composed of members of specific tribes; apparently the recruitment and management of choruses (συλλέγειν καὶ ἐπιμελεῖσθαι) was commonly handled by certain men in each tribe. **ὠνεῖσθαι καὶ ἀναλίσκειν** "buy and spend money," *pleonasm*. **ἄριστα:** all editors except tB add ὥς before ἄριστα, but see 6.12n. on ἄριστα; here the loss would be easier to explain after ὅπως.

**14 καθειστήκει:** pluperfect (1.1n. on καταστήναι). **προφάσεως ἕνεκα** "in justification" (5.21n. on πρόφασις). **εἰπεῖν:** the syntax seems impossible (*pace* tB) unless some change is made, and the deletion of εἰπεῖν (perhaps influenced by ἐπεῖ) may be easier paleographically than the addition of καὶ before ὅ τι (Th). **ἐπεῖ:** 5.50n. **τῶν περιστώτων** "the bystanders," a rare meaning of this verb. Ch. was a

well known public figure, whose trial would presumably attract a large crowd, including many relatives of other boys in the chorus. It is also possible that some jurors, like some in the audience, had direct or second-hand knowledge of the events; this would not prevent them from serving. **τοῦ ὀρκωτοῦ**: the official who administers the oath. **ἀκούουσι**: Ch. speaks as if the bystanders can still hear his words. **εἶναι . . . πείσαι**: both infinitives depend on **δοκεῖν**.

### 15–19 *The proofs*

*The transition to the proofs is rather abrupt, as we have been told nothing about the more immediate events concerning Diodotus' death; nor have we had any confirmation from witnesses concerning the general arrangements for the chorus. These arrangements were probably not in dispute, so that A. may have seen no need to add support to his account; A. may be trying to convey the impression, moreover, that since Ch. was not present, he cannot say anything about what happened but can only reiterate that he was in no way involved. Finally, Ch.'s denials of specific actions ("I did not order," etc.) were presumably supported by many witnesses, and the prosecution may have largely avoided giving a specific account, concentrating instead on other issues (see introduction to 6, above).*

**15 ἕτερον**: although blaming someone else (such as the person who gave the drink to Diodotus) might help acquit Ch., it would surely hurt his standing in the community if he helped convict one of his associates of homicide. **τῆς τύχης**: contrast the attitude toward **τύχη** in the Second Tetralogy, where the defendant avoids blaming **τύχη** while the plaintiff argues (3.3.8) that if the death was caused by **τύχη**, the blame still falls to the accused. The crucial difference may be that the defendant in that case was directly involved in the boy's death and so could be held responsible for an accident; Ch. may have been less inclined to blame **τύχη** if he had given Diodotus the drink himself. It is also possible that attitudes toward **τύχη** had changed if a decade or two separates this case from the Tetralogies. **ἀποστρέψαι**: all modern editors except tB change this to **ἀποτρέψαι**, but see 2.3.7n. **μὴ οὐ γενέσθαι ἥτινα δεῖ ἐκάστωι**: lit. "(prevent) from happening whatever (fortune) must happen for each person." **ἐκάστωι**: all modern editors postulate a lacuna here to accommodate a clause summoning the witnesses, but cf. 5.61.

**16 ἐξ αὐτῶν δὲ τούτων**: i.e. from the testimony of the witnesses; the



same expression in 6.17 refers to the prosecution's arguments (ἐξ αὐτῶν τούτων ὧν αἰτιῶνται). For the idea that *logoi* should be tested against the facts, cf. 3.4.3 (ἐκ τῶν πραχθέντων), 5.84. **ἀληθέστερα καὶ εὐορκότερα** "more truthful and more correct in their oath"; *pleonasm*, since εὐορκος means "swearing a true oath." **διωμόσαντο**: since each litigant in a δίκη φόνου swore an oath (διωμοσία; cf. 1.8n. on ἀντομωμοκῶς ἔσται) before the trial stating the essence of his case, a litigant (and the logographer) would know his opponent's exact words beforehand and could thus refer specifically to this oath, rather than vaguely to "what they say." The speaker in Ant. 1 frequently quotes the words εὐ οἶδα from the defendant's oath (1.6n.), though he rarely mentions the oath specifically (1.8, 1.28). Here Ch. explicitly opposes his oath to the plaintiff's oath as a concise demonstration of their differences. Some have seen in this an echo of an archaic procedure where disputes were formally decided by oaths alone, but there is very little evidence that such procedures were ever important in Greek law. **βουλευσάντα**: on the "planner" vs. the actual killer, see introduction to 6, above. The syntax makes clear the priorities: the main point of dispute is stated in the infinitives (ἀποκτεῖναι vs. μὴ ἀποκτεῖναι); the circumstantial participles limit this action, the first specifying that the killing was done by "planning" (not by Ch.'s own hand), the next two (μήτε χειρὶ ἀράμενος μήτε βουλευσας) forming an exhaustive pair for emphasis, even though only the latter is relevant to the charge (similarly μήτε ἀδίκως μήτε δικαίως ἀποκτείνειν in 3.2.9, etc.). **τὸν θάνατον**: Heitsch (1980: 23) argues that these words were not in the plaintiff's oath but were cleverly added by A. to suggest a contradiction in the prosecution's case (that the death was both accidental and planned); but βουλευσάντα τὸν θάνατον does not necessarily indicate an intentional plan to kill; cf. 4.3.4 βουλευτήν τοῦ θανάτου. **ἀράμενος**: many editors emend to ἐργασάμενος (comparing Andoc. 1.94), but χειρὶ ἀράμενος (defended by Wilamowitz 1900: 401 n.1, and more recently tB and Ba) lit. "with one's own hand," "having raised it up" – may reflect archaic language. The sentence in Draco's law that almost certainly contained a pair of expressions for actual killing and planning (*IG* 1<sup>3</sup> 104, 11–13) has a lacuna at the crucial spot.

**17** Ch. here returns to the same points of denial he made in 6.15. **αἰτιῶνται**: Ch. now turns to the prosecution's arguments, which were not included in their oath. **ἐκ τούτων** "on these grounds" (specified

in what follows). **αἴτιος ὅς:** Wilamowitz (1900) 401 n.2 (followed by tB and Heitsch) argues for retaining the MS οὔτος, understanding it as a direct quotation: the prosecution make the accusation that “this man either (Wil. adds ἥ) ordered or forced or gave”; i.e. they are not sure just what Ch. did, but they claimed that he must have done one of these. But the prosecution would hardly claim he had done something that many witnesses would deny (see next note). On this reading, moreover, οὔτος is very difficult to understand as a reference to the speaker (especially after the immediately preceding οὔτοι) and would seem unnecessarily confusing; if this were the sense he wished to convey, the normal ἐγώ would make his meaning clear. **οὔτε γὰρ ἐκέλευσα κτλ.:** in view of Ch.’s emphasis on the strength of his witnesses’ testimony, it seems unlikely that the plaintiff asserted that he committed one or more of these specific acts; on the other hand, he probably did not explicitly concede that Ch. did not commit any of them. Most likely he said something like, “whatever he did, whether he ordered or forced or gave or had any other involvement, he was nonetheless in charge and thus is responsible for the death.” Ch. could then take these words and make them appear to allege that he had committed one of these acts. **ἔδωκα . . . ἠνάγκασα:** all modern editors reverse these two to create the same order as in the preceding sentence (and elsewhere). Reversing the order of words is a common scribal error, but it is also common for A. to break a pattern at times. **ἐπιπροστίθημι:** every editor since Aldus changes this to ἔτι προστίθημι, but the double compound verb occurs in the (possibly contemporaneous) Hippocratic *On nutriment*, and ἐπιπροστίθημι would suit A.’s fondness for compound verbs (Introd. 8 ii 4). **αὐτοῖς** “to these statements” (*vel sim.*). **καὶ εἴ φασιν κτλ.:** Ch. reiterates his denials in three nearly identical sentences with slight variation (Introd. 8 v 3) in the third (καὶ εἰ τὸν δόντα κτλ.).

**18** The argument should be compared particularly with 3.4.1–2 – that truth is to be determined from the λόγοι of both sides – and 2.1.1 3 – that when crimes are planned and carried out in secret, hard evidence is normally lacking and judgment must be rendered on the basis of likelihood (εἰκός). The basic idea is the same in all cases: λόγοι are necessary when the facts are not known or their interpretation is not clear, but there are limits on the power of λόγοι: they cannot produce a logical contradiction of reality, just as they cannot produce an argument that violates the facts (3.2.4n. on οὐδείς . . . λόγος). **ἔξεστι τῷ**

**βουλομένωι:** this may be an allusion to the language of many public procedures (such as the *graphē*), where “anyone who wished” was allowed to prosecute. **ἐν τοῖς** “dependent on,” “in the power of” (LSJ s.v. A.I.6). **ὅποσα μὲν:** the contrast is with **ὅπου δέ** (6.19). **θηρεύειν . . . ὑπονοεῖν τὰ λεγόμενα:** the same words in Andoc. 1.9 μήτε ὑπονοεῖν τὰ λεγόμενα, μήτε ῥήματα θηρεύειν. **ἐπὶ σμικρόν** “in detail.” Elsewhere (Soph. *El.* 414, Herod. 4.129) the phrase means “to a small extent,” and Dover (1988) suggests emending to ἐπὶ σμικρῶν, but this expression is unparalleled (for Soph. *Ajax* 1268 see Lloyd-Jones and Wilson 1990: 37 8). **εἰκάζοντας . . . σάφα εἰδóτας:** cf. 1.6n. on σαφῶς εἰδέναι.

**19 ὅπου δέ κτλ.:** the sentence ends (at ἐξελέγχοιτο) without a main verb, probably an intentional *aposiopesis* (“breaking off in silence”), suggesting that the conclusion is so obvious that the speaker does not need to put it in words, and leaving in the jurors’ minds the final consideration, that an unjust accusation is completely rejected. **ἐκ προνοίας:** 1.5n. **ἐκ παρασκευῆς:** virtually equivalent to ἐξ ἐπιβουλῆς (1.3, 2.1.5, 5.25), but Ch. could not use the latter term since the charge included the word βουλεύσας. The prosecution probably did not elaborate on the charge of unintentional homicide, but Ch. is drawing out the implications of this charge, as he sees them. **πραχθῆναι** is not really parallel with γενέσθαι, but there is no other construction for the infinitive than with ὁμολογοῦσι. Perhaps this is part of the syntactic breakdown of the sentence, or perhaps something has dropped out. **πολλῶν:** more than fifty, so we are told (6.22). **δούλων:** we hear more of these below (6.23–32). **ἐξελέγχοιτο:** for the omission of ἄν, which all modern editors add, see 1.25n. on γίγνοιτο.

## 20–2 Further narrative

*Ch. now relates the actions of Diodotus’ brother, Philocrates, after his death. The account prepares for the full-scale attack on Philocrates’ motives in 6.33–50.*

**20 ἀμφοτέρα:** either adverbial or the object of ἐνθυμηθῆναι (which can take either an accusative or a genitive).

**21 οὔτοσι:** Philocrates is present as plaintiff. **ἀναβάς:** ἀναβαίνω is commonly used of “mounting” the speaker’s platform (βῆμα) to address a court or an Assembly (LSJ s.v. II.6); here (twice) with εἰς it means “come before,” i.e. to address. Philocrates and Ch. apparently

had a special hearing before the court, which was going to hear Ch.'s *eisangelia* the next day. **τὴν ἡλιαίαν τὴν τῶν θεσμοθετῶν** “the court of the *thesmothetae*”; this is the official name, found in inscriptions as early as 446/5, for the court in the sense of both building and institution (there is a full discussion in Hansen 1981–2). The *thesmothetae* were the six other archons (after the eponymous archon, the *basileus*, and the polemarch); they presided over a variety of cases (*AP* 59). Ch.'s *eisangelia* (6.12n.) against Aristion *et al.* was presented to the Council (6.35), but important cases were often referred to the courts, since the maximum penalty the Council could levy was a fine of 500 drachmas. **ἐξεφέρετο**: lit. “was being carried out,” the standard term for conveying the corpse from the home where it had been “laid out” (6.34) to the grave. Here and 6.37 Ch. implies criticism of Philocrates for going to court before his brother's funeral is complete. **ὅτι ἀδελφὸν κτλ.:** Philocrates was unofficially notifying the court that a homicide case would be brought; his formal proclamation was not made until the following day (6.34). **ἐν τῷ χορῷ**: i.e. “as a member of the chorus”; the accusation probably accused Ch. of the homicide specifically in his role as χορηγός. **ἀναγκάσας**: Philocrates may have used this term in reporting to the court, since he was not making a formal, sworn accusation; or Ch. may be distorting his words. **οὐ δίκαιον προκαθισταίη**: the verb occurs only twice elsewhere in classical Greek, both times of posting a guard as a precaution (Thuc. 2.2, Xen. *Hiero* 6.9); here the metaphorical use is striking. Ch. accuses Philocrates of unjustly using the law to protect his friends against the threatened prosecution (Ch. would be banned from court after being proclaimed a killer; 6.34n. on εἶργεσθαι τῶν νομίμων). Some editors read δικαίως, but the predicative adjective gives the same sense. **αὔριον <καί> τῇ ἑνῇ** “tomorrow and the day after”; the case involved several defendants, and according to Athenian law each had to be tried separately (the trial of the generals after the battle of Arginusae in 406 was a notorious violation of this rule).

**22 αἰτιῶντο**: this and the following optatives indicate that Ch. continues to report his statements to the court. Some editors change ἥπισταντο at the end of 6.22 to an optative also (ἐπίσταιντο), but after such a long interval it is not unusual to revert to the indicative. **καὶ τὰ λεγόμενα**: logically superfluous after τοὺς τε λόγους τοὺς λεχθέντας and most editors (not tB) delete them, or change the participle to

γενόμενα, or otherwise alter the text; nonetheless, the words should remain as part of a general summary expression (“everything said and done”).

### 23 32 *The witnesses and the challenge to basanos*

*Ch. elaborates the challenge he issued that slaves in the house be interrogated about the events surrounding Diodotus' death (on the challenge to basanos see Introd. 7). As usual much is made of the opponents' rejection of the challenge (cf. 1.6 13) and their alleged refusal to credit the testimony of his witnesses. The prosecution probably tried to ignore the challenge to basanos (and the free witnesses) and directed their arguments to other issues.*

**23** This and the next two sections each consist of one long sentence, but the sense and syntax are clear throughout; see Introd. 8 vii. **προύκαλούμην:** the technical term for issuing a challenge (πρόκλησις); several other terms (ἐκέλευον, ἔτοιμος εἶην, κελεύοι, παραδώσειν) also recur regularly in connection with a challenge to *basanos* (see Thür 1977: 59–68). **ἐν τοῖς αὐτοῖς δικάσταῖς:** after c. 380 jurors were selected by lot every day, so that the same jurors would not be in court the next day; but in the fifth century jurors may have been assigned to a court for more than one day.

**τοὺς παραγενομένους:** sc. at the time of Diodotus' death. **ἐρωτᾶν καὶ ἐλέγχειν:** *pleonasm* (1.20n.), though the second verb suggests a more intensive interrogation. **σφῶν ἕνεκα** “for their own sake.” Almost all modern editors add τ' αὐτῶν after σφῶν, but tB cites inscriptions and Thucydides in defense of the MS reading; cf. 1.13n. **ὅν οἰκεῖον σφίσι.** **εἰ . . . τάληθῇ δοκοῖεν λέγειν:** sc. ἐρωτᾶν καὶ ἐλέγχειν; i.e. he should question them like free men, if he thought they were telling the truth; if not, he should use torture.

**τινας τῶν ἀλλοτρίων:** these might have belonged to Ch.'s assistants or to the families of some of the boys, or Ch. may just be expanding his offer for rhetorical effect. It is rare for slaves not belonging to one of the two parties to be offered or requested for *basanos*.

**24** **εὖ εἰδότες:** cf. 1.8 εὖ ἤϊδει. **τούτοις . . . ἐμοί** “in their favor . . . in my favor.” **ὅτι** “because,” with the indicative.

**25** **ἀνάγκαι:** English does not normally use the plural, but it is needed here to suggest that the “compulsions” for free men and slaves are different. **ἐλεγχοὶ . . . πιστότατοι:** sc. εἰσί, “proofs . . . (are) most convincing.” **πίστεσιν** “pledges,” “confirmations”; appar-

ently these are verbal confirmations other than oaths, but it is not clear what (if anything) Ch. has in mind; contrast 6.23, where free men tell the truth σφῶν ἔνεκα καὶ τοῦ δικαίου. ἦν: the only instance in A. of this Ionic and older Attic form of ἐάν. τῆς μελλούσης ἔσεσθαι: the future compulsion is the slave's death, presumably as a self-confessed criminal; cf. the discussion of the relative power of present and future pleasures and pains in Plato, *Prot.* 356a–c, which suggests that this issue was discussed by Protagoras or other sophists.

**26** ἐξ ὧν: ἐκ τούτων must be understood with the main clause (ἐξῆν κτλ.). ἀνθρωπον ὄντα: i.e. not having divine understanding. πρόφασις: 5.21n. ἐλέγχειν εἰ τι ἡδικοῦντο “confirm any wrong they suffered”; not “confirm whether they suffered any wrong,” an indirect question that would require the optative.

**27** εἰ μὲν ἐγὼ κτλ.: a hypothetical role-reversal; cf. 1.11n., 5.38n., 5.74, 5.84. ἀποφῆναι “reveal,” sc. the names of. ἐξαιτοῦσι: τούτοις must be supplied from the preceding τούτων. αὐτὰ ἂν ταῦτα μέγιστα τεκμήρια: the same conclusion in 1.11. ἐποιοῦντο “consider” (LSJ A.V). δίκαιον: sc. ἐστί. οὐκ ἀληθὴς ἦν: some editors delete ἦν as inconsistent with the present tense that follows; but the expression matches ἀληθὴς ἦν in the preceding clause, and the inconsistency is minimal (Introd. 8 vi 3).

**28** Much of the wording in this section is similar or identical to 5.84. τοὺς μάρτυρας: 5.84n. ὅτι τὰ σημεῖα. τοῖς μὲν μάρτυσι τοῖς μάρτυροῦσιν: almost all editors emend to τοῖς <έμοι> μαρτυροῦσιν to provide some justification for the participle (which is absent in 5.84); but Maetzner (followed by tB) defends the MS reading, citing such parallels as Lys. 30.22 ἡ βουλὴ ἡ βουλευούσα (emended to ἡ <αί> βουλευούσα by most editors). ἐγὼ εἰ ἔλεγον: ἐγὼ is necessary to show that ἔλεγον is first-person singular, not third-person plural like κατηγοροῦν; its position outside the conditional clause elevates the style slightly.

**29** δεινόν: sc. ἐστί; used in a similar context in 1.12. For the construction after εἰ see S 2247; the first possibility is unreal, hence ἂν . . . ἦσαν. καὶ εἰ μὲν κτλ.: it is of course nonsense to talk of presenting witnesses when none were present, but the clause provides a logical and rhetorical balance to the rest of the sentence. παρέχομαι: for the present tense see 5.27n. <καὶ>: almost all editors accept Reiske's supplement; the MS text is syntactically possible, but requires that εὐθύς ἀπὸ τῆς πρώτης ἡμέρας go with παρέχομαι, where it has little point, and in

that case it is nearly impossible (*pace* Maetzner to understand the phrase also with λέγοντες, where it is needed for the sense. **πόθεν** “by what means”; lit. “from where” = “drawing on what resources.” **τάληθῇ πιστὰ κτλ.**: cf. 5.3 πολλοὶ . . . ἄπιστοι γενόμενοι τοῖς ἀληθείαι . . . πολλοὶ . . . πιστοὶ γενόμενοι τῷ ψεύδεσθαι. **ἐκ τῶν τοιούτων**: i.e. by means of witnesses.

**30 τεκμήρια**: here = “arguments,” as in 4.4.2 3 (cf. 1.10n.). **ἀποφαίνονται, ταῦτά**: the only instance in A. of ἀποφαίνω in the middle, but the middle, though rare, is sometimes used in this sense (Herod. 5.45 μαρτύρια ἀποφαίνονται). Most editors emend to the active.

**31-2** Before recounting events leading up to the prosecution and examining the prosecution’s motives, Ch. summarizes his argument in a mini-epilogue with considerable rhetorical emphasis (balanced clauses, repetition, etc.).

**31 λόγους . . . εἰκότας** a “plausible account” i.e. the narrative, not “arguments,” which are here designated τεκμήρια.

**32 ὅπου** here = “when” LSJ s.v. II.1; cf. 1.7n. **ἡδίκουν, καί**: almost all later editors (except tB) accept B’s emendation of these words to <εἴ τι> ἡδικοῦντο (as in 6.26), but (once again) change for the sake of consistency is misconceived in A. when the MS reading gives good sense: i.e. (when they refused the test I offered “they were committing a crime (not I, and surely . . .” **ποῦ . . . ἢ πόθεν**: the summation ends with two rhetorical questions: “where else can I turn, what arguments can I use”?

### 33-50 The attack on the prosecution’s motive

*Ch. now turns to the events after Diodotus’ death to show that the boy’s relatives only brought these charges against him because they were bribed by Ch.’s political enemies who wished to stop him from prosecuting them on other matters. Their first attempt to register a charge of homicide was motivated by Ch.’s prosecution of Philinus et al. and was thwarted by a procedural ruling. They made no further attempt until Ch. began a second prosecution several months later, at which time they (allegedly) took a bribe of 30 minas to charge Ch. with homicide so that he would have to drop this case.*

*These political considerations fall outside the specific issue of the homicide, and although the prosecution apparently alleged some public wrongdoing by Ch. (cf. 6.9n. on τῇ μὲν πόλει . . . αὐτοὶ δε., they might be expected in their rebuttal not*

only to deny the charge of bribery but to argue that Ch. has violated the rule that in homicide cases one must stick to the point (5.11n. on ἡ μήν).

**33** εἰρημένων καὶ ἀποδεδειγμένων: probably *pleonasm*, though Ba suggests that the words refer to the narrative and proof sections respectively. οὐδέν μοι προσήκει “nothing (in the charge) is relevant to me.”

Ch. continues the highly rhetorical tone of 6.31–2, giving the impression that this is his conclusion. Only in 6.34 does he introduce his new argument (foreshadowed in 6.20–1), which will occupy the rest of the speech.

ἐπιорκοτάτους “most perjured”; ἐπίορκος is more often used of an oath that is false than of a person who swears falsely. Because of the specially solemn oaths sworn in homicide cases (5.11), Ch. stresses the prosecution’s false oaths rather than simply their falsehoods.

οὐ μόνον ὑπ’ ἐμοῦ κτλ.: on the linking of the public and private dimensions of a litigant’s case see 6.9n. on τῇ μὲν πόλει . . . αὐτοὶ δέ. δίκης . . . ταυτησί “this case” (not just the trial).

**34** προέκειτο: the technical word for a corpse being “laid out” for burial (cf. 6.21n. on ἐξεφέρετο), a process that may have resembled a modern wake.

οὐδ’ ἀδικεῖν: the repetition of οὐδέ, presumably for emphasis, is unparalleled and is deleted by many editors; but Ch. is trying to be emphatic, and A. is not averse to unnecessary repetition (Introd. 8 vi 1).

συνῆσαν ἐμοὶ καὶ διελέγοντο: M (*ad loc.*) sees an allusion to the idea of pollution (Introd. 7); but the argument certainly does not require such an allusion (even today a person would not normally associate with someone he was about to accuse of homicide). If A. had meant to refer to pollution, he could easily have made this point explicit.

τῇ δὲ τρίτῃ: as this passage shows, the Greeks counted inclusively; thus the “third” day would for us be the second day after the boy’s death.

πεπεισμένοι: i.e. “bribed” (5.80n.). εἰργεσθαι τῶν νομίμων: 3.1.2n. on ὦν ὁ νόμος εἶργει; the point here, of course, is that Ch. would be banned from the courts (cf. 6.21).

**35** κατηγορήσιν: cf. 6.12, with notes on Ἀριστίωνα, Φιλῆνον and εἰσήγγειλα, and 6.21. For the asyndeton see GP xliii xliv. Ἀμπελίνου: nothing is known of this man, who is not mentioned when Ch. earlier refers to this prosecution (6.12, 6.21). Jernstedt suggests he may be the scribe of the *thesmothetae* and that καὶ was later inserted in the text before τοῦ, thus creating a fourth defendant.

περὶ ὧν “for which (crime).” ἀπογράφεσθαι: a technical term for registering a legal prosecution; its direct object may be, as here, the person accused,



or the crime of which he is accused. The verb occurs seventeen times in 6.35 46 and nowhere else in *A.*, the reason being that only in this passage is the action of registering a prosecution significant, for it marks the moment that the accused is barred from other legal actions (6.36). *προαγορεύειν* . . . *νομίμων*: 6.34n. *σφίσιν*: for *σφῶν/σφίσι* without *αὐτῶν/αὐτοῖς* see 1.13n. *οἱ οἰκεῖον σφίσι*.

**36** *ραιδίως ἐμελλόν ἀποφεύεσθαι*: since an *eisangelia* was a public procedure by which any citizen who wished could prosecute, someone else could have taken over the case; Ch. may have known most about the case, as he says, but he is also probably exaggerating the ease with which Philinus *et al.* would have gotten off. *Λυσιστράτῳ*: for possible references to this Lysistratus elsewhere, see Mor (*ad loc.*); Raubitschek (1954) 70 1 n.15. *ὥς . . . ἤκούσατε*: when did the jurors hear of Lysistratus' case? G's suggestion that he had been tried before the Palladion because of circumstances similar to the present case is mere speculation. More likely, either the witnesses in 6.15 (or elsewhere if a reference to them has dropped out) mentioned this case in their testimony, or Ch. simply means "as you all know."

**37** *οὔτοι*: the plaintiffs (1.4n.). *τότε μὲν*: answered by *ἐπειδὴ δέ* (5.38), but the contrast is not expressed until *τότ' ἔτι* (5.38), when the plaintiffs' eagerness suddenly vanishes. *τῇ ὑστεραίᾳ ἡ* must mean "the day after" the burial, though this sense usually requires an *ἡ* (which some editors suggest adding; so LSJ s.v. I). The funeral and the informal notice of intent to prosecute occurred on the third day (counting Diodotus' death as the first day, 6.21); the formal proclamation and the first of the *eisangelia* trials on the fourth day. *καὶ τὰ νομιζόμενα ποιῆσαι*: probably *pleonasm*: purifying the house was the primary "customary rite" the day after the funeral. *φυλάξαντες*: not "waiting for," as it is often translated (which would imply that they could have acted sooner), but "mindful of." The plaintiffs issued the proclamation for homicide at the first possible moment, the day after the funeral, mindful that the *eisangelia* trials would begin that very day. The participle then also governs *ὅπως μηδέ*, with the sense of "intending to prevent" (me from proceeding). *ὁ πρῶτος*: cf. 6.21n. *οἱ αὐριοὶ* <καὶ> *τῇ ἑνῇ*.

**38** *χρόνους* "times," "dates" for the three preliminary hearings, etc.; some editors have altered this to a singular, but the plural is used in e.g. Dem. 21.112. *τὰς κλήσεις*: a "summons" (the technical term is

πρόσκλησις) had to be issued to the accused at least four days before a hearing; see Harrison (1971) 85–7. **ὅσας ἔδει:** see 6.42n. Ch. gives a fuller account of the *basileus*' actions in 6.42. **εἶλον:** 2.1.5n. **ἐτιμήθη** "the penalty was assessed," i.e. by the jurors after conviction (5.10n. on τίμησιν). **καὶ οὗτοι κτλ.:** the plaintiffs in this case (οὗτοι) could no longer give Philinus *et al.* (αὐτοῖς) the help for which (ὧν ἕνεκα) they originally accepted the bribe. The dative (αὐτοῖς) with ὠφελέω is poetic (LSJ s.v. I.3), the accusative being normal in prose. **διαλλαγῆναι:** aorist passive; this is the standard verb for a formal reconciliation.

**39 πεισθεὶς ὑπὸ τῶν φίλων:** friends often help persuade (or try to persuade) two parties to be reconciled (cf. Lys. 32.2 with Carey's note). **ἐν Διιπολείοις:** editors are divided on this emendation. If ἐν τῇ πόλει of the MSS means "in the city," it would be pointless; thus it is usually taken to mean "on the Acropolis," a possible meaning but (a) "the temple of Athena" (i.e. the Parthenon) needs no further identification and it would be odd to have two different indications of place in separate clauses, and (b) although Thucydides tells us (2.15.3) that the ἀκρόπολις and the area around it had once been a πόλις, we have no example where πόλις designates the Acropolis. In favor of ἐν Διιπολείοις, it would add credibility to Ch.'s account to specify the date of the reconciliation in addition to the place; the Dipoleia was an easy occasion to remember (2.4.8n.); and since it was held on the 14th day of Skirophorion (6.42n.), slightly more than a month after the Thargelia (6.11n.), the time would be right for a reconciliation, which, although Ch. suggests it happened quickly and easily, probably took some time to arrange. The emendation was suggested by an entry in Harpocration: Διιπόλεια . . . Ἀντιφῶν ἐν τῷ περὶ τοῦ χορευτοῦ. Harpocration may, of course, be mistaken, or reference to this festival may have occurred in some other passage that is now missing, but all in all, the emendation seems likely. **μαρτύρων:** where are these witnesses? Either a reference to their testimony has dropped out (6.41n.), or A. does not think their testimony is needed and does not wish to break the narrative at this point, or perhaps he is distorting the episode to such an extent that witnesses would not be able to give strong support to his account. **ὅτι περ διήλλαττον:** the redundancy helps emphasize the fact of reconciliation. **ἐν τοῖς ἱεροῖς κτλ.:** the list of places in which a man would most assiduously avoid contact with someone who had killed his relative

included public places (where contact was prohibited by law) and one's own home. As in 6.34 (cf. n. on συνῆσαν ἐμοὶ καὶ διελέγοντο) a reference to pollution is often seen here (e.g. MacDowell on Dem. 21.117), but this is unnecessary. For the asyndeton see 6.4n.

**40 ὦ Ζεῦ κτλ.:** the only direct appeal to the gods in A.; the tactic is more common in Demosthenes (e.g. 19.16 ὦ Ζεῦ καὶ πάντες θεοί), but quite rare in the other orators. **ἀπτόμενος ἐμοῦ:** it is not clear precisely what physical gesture (if any) is indicated. There is no evidence that Greeks shook hands or clasped forearms, and although ἄπτεσθαι must here indicate a friendly gesture, it is more often used of hostile seizure. **εἶργεσθαι τῶν νομίμων:** 3.1.2n. on ὧν ὁ νόμος εἶργει.

**41 μνήσθητε:** Ch. is probably asking them to recall the prosecution's speech, which probably included this accusation that Ch. and the *basil-eus* conspired together to thwart the initial homicide prosecution. **μάρτυσιν:** one can make a strong case that witnesses must have testified at some point during this account of events after the boy's death (6.33 50). Even if the contrast between witnesses and deeds is primarily rhetorical (see next note), it implies that some witnesses have recently testified or will soon testify. These events, moreover, were witnessed by many people (cf. 6.39), whose testimony could not but strengthen the case. If witnesses testified only once in this part of the speech, a reference to them may have dropped out of the text; but if, as the argument of 6.48 implies, witnesses testified at several points, it is unlikely that all references to them were accidentally omitted. Perhaps A. did not write specific language introducing witnesses but left the phrasing of such introductions to Ch. Unlike the speakers in Ant. 1 and 5, Ch. is an experienced litigant, so that A. could write words introducing the first witnesses in 6.15 and rely on Ch. to introduce the other witnesses himself, where appropriate. **ἔργων:** deeds are normally confirmed by witnesses, not contrasted with them. But these ἔργα were apparently related by the prosecution and thus do not need to be confirmed by Ch.'s witnesses. **οὐ φασιν ἐθέλειν:** οὐ negates the infinitive, as usual. **ἀπογράφεσθαι:** 6.35n. **τοῦτο δέ:** "apodotic" δέ, though rare in prose, sometimes occurs after a relative protasis when the apodosis opens with a demonstrative pronoun (examples in *GP* 178); most modern editors (not G) unnecessarily change to δῆ. **τεκμήριον:** 1.10n.

**42 ἔδει μὲν κτλ.:** the rules governing a homicide case (for which this

speech is our primary evidence) apparently constrained the *basileus* in certain ways but probably also left him some discretion. The most certain legal requirement was that three preliminary hearings needed to be held in three successive months. This requirement was probably stated in the law the *basileus* cited in defending his action (6.38). But the law almost certainly did not state explicitly that a homicide case could not be passed on to a successor; otherwise Ch. (and the *basileus*) would surely have cited this law directly rather than arguing from historical precedent. Probably the law spoke of ὁ βασιλεύς without explicitly stating that this must be the same *basileus* during all three hearings. It might be reasonable to prefer that the same official hold all three hearings and conduct the trial, but this would have the undesirable consequence that in some cases a murderer would be free to participate in public life for several months. Thus the law probably did not prohibit the *basileus* from registering the case, and Ch.'s explanation that "he did not think it right" to register the case suggests that he could, in fact, have done so if he wished. In refusing, the *basileus* was exercising his own discretion, and his decision may have been based on several factors: the unorthodox nature of the charge of "planning" an unintentional homicide (see introduction to 6, above), Ch.'s high standing in the community, and perhaps his own friendship with Ch. The prosecution could protest this decision, but there was no legal means of appealing it (cf. 6.43). **τρεῖς προδικασίας**: the purpose of these hearings may have been to allow a cooling off period as well as to prepare for trial. Athenian law included many inducements to settle disputes without a trial and often required arbitration before or instead of a trial. In this case a settlement was apparently reached during the delay, though it soon collapsed.

**τῆς δ' ἀρχῆς** "his (term of) office." **Θαργηλιῶν καὶ Σκироφοριῶν**: the last two months in the Athenian year; the term of all annual offices ended at the end of the year. **ἐν τῇ γῇ ταύτῃ**: the same phrase in 5.9 and 5.14 = 6.2, in all cases emphasizing the universality of tradition. **παρὰ τοὺς ὑμετέροους νόμους**: this vague expression does not necessarily mean there was a specific law preventing the *basileus* from registering the case.

**43 σημείον . . . τεκμήριον**: here the terms are interchangeable (1.10n. on τεκμήριον). **τῶν ὑπευθύνων**: lit. "those accountable." At the end of their term in office all Athenian magistrates had to undergo an "examination of accounts" (εὔθυναί, usually in the plural) at which

anyone could challenge their financial conduct in office or accuse them of other violations. These hearings presented many opportunities for aggressive prosecution of one's political enemies, or for malicious threats of prosecution in the hope of financial gain. At first glance, it may seem odd that Philocrates did not lodge a protest at the *basileus'* hearing, but at this point he and Ch. had apparently been reconciled. ἔσειε "shook." In colloquial usage the verb has the same sense as English "shake down"; in Aristophanes (*Knights* 840, *Peace* 639, cf. fr. 219 ἔσειον, ἡιτουν χρήματ', ἡπειλουν, ἐσυκοφάντουν) it suggests the work of a sycophant (Introd. 7); this is its only use in the orators. Philocrates' activity in challenging other magistrates belies the picture of him as only a pawn in the hands of Philinus *et al.*; he has his own political interests and is presumably serving them as well as Philinus'. **δεινὰ καὶ σχέτλια:** *pleonasm.* **καίτοι:** also used in a rhetorical question summarizing an argument in 5.16, 6.47.

**44 ἐπειδὴ γάρ:** most editors change γάρ to δέ on the view that a new argument begins here; but, as Ba argues, Ch. here supports his conclusion in 6.43 that the prosecution themselves think he (as well as the *basileus*) committed no crime. **οὔτοσι ὁ βασιλεύς:** the *basileus* presiding at this trial (not the old *basileus*, as Mor takes it); as presiding magistrate, he would be present at the trial. **ἀρξαμένοις κτλ.:** a new *basileus* took office at the beginning of Hekatombaion, the first month of the new year, which was followed by Metageitnion; each month had twenty-nine or thirty days (there is a good summary of the complexities of the Athenian calendar(s) in Woodhead 1981: 117 22). **τούτων:** sc. ἡμέρων. **παρεῖσαν** "they passed over" (from παρήμι). **πλέον ἢ πεντήκοντα:** since thirty and twenty add up to exactly fifty, this calls for explanation. "More than fifty" is probably a simple exaggeration; the simplicity of the sum would seem to make mathematical error or textual corruption less likely.

**45 ἐγχωρεῖ:** about a line of text seems to have dropped out here (cf. 2.1.4) to the effect that others register the case as soon as the new *basileus* takes office. **τούς νόμους ἅπαντας:** 4.4.3n. on τῶν ἄλλων ἀπάντων κατηγορουμένων. **βουλευόντα** "serving as a Councilor." Ch. had been selected (by lot from those nominated) to serve on the Council in the present year. Until c. 407 the Council followed its own calendar so that the new Council did not usually begin serving on the first day of the new year (for further information on the Council, see

Rhodes 1972). **καὶ ἐν αὐτῷ κτλ.:** as the list of Ch.'s public and religious activities gets longer, the original construction will be forgotten (*anacolouthon*). The point of the list is that the prosecution must have had full knowledge of these activities (ὁρῶντες ἐμέ, φανερός ἦ); Ch. does not seem concerned with pollution, though he could easily have added an argument that his presence did not pollute shrines or sacrifices. **Διὸς Βουλαίου:** Pausanias (1.3.5) mentions a statue in the Council chamber to Zeus of the Council, but says nothing of Athena. **καὶ εἰς τάλλα:** the string of participles that follow seem at first to be in apposition to ὁ ταῦτα πράττων, but they can also be taken with the final φανερός ἦ; the jurors would have no trouble following the sense. **πρυτανεύσας:** The Council comprised fifty men from each of the ten tribes; its year was divided into ten prytanies of thirty-six or thirty-seven days each, and each tribe held the prytany once each year. The tribe holding the prytany carried out all the administrative duties of the Council, and this year Ch.'s tribe was selected (by lot) for the first prytany, which at this time was always thirty-seven days long. Ch. tells us that he served thirty-five of these days ("all but two") and earlier (6.44) that he served for twenty days of Metageitnion. We can calculate, therefore, the new Council began its service this year on the 16th day of Hekatombaion, and the evidence of inscriptions informs us that this happened in 419/8 and in no other year near this. **ἱεροποιῶν:** several Councilors were appointed ἱεροποιοί to perform religious ceremonies, such as sacrifices; cf. Dem. 21.114–15, where a similar point is made ("Meidias did not object to my serving; therefore he considered me innocent"). **ἐπιψηφίζων** "putting matters to a vote." The prytany had a different chairman (ἐπιστάτης) each day, selected by lot; in this capacity Ch. chaired a session of the Council at which he put matters to a vote and issued opinions.

**46 παρόντες καὶ ἐπιδημοῦντες:** *pleonasm.* **ἱκανά γ' ἦν ὑπομνησαι καὶ ἐνθυμηθῆναι, εἴπερ ἡδικοῦντο, ἀμφοτέρα** "there were sufficient reasons (for them) to remember and be concerned about it, if they were wronged, (reasons) of both kinds . . ." **διὰ τί συνῆσαν:** almost all editors accept Dobree's change to δι' ὃ τι = "for the reason that" to provide an answer to the preceding question. But the repeated question is effective (cf. 5.36) and the following sentence clearly answers both questions. tB cites Lysias 13.64 (τούτους . . . Ἀγόρατος . . . ἀπέκτεινε . . . τίς ὦν αὐτός; δεῖ γὰρ ὑμᾶς εἰδέναι ὅτι δοῦλος . . . ἐστίν) in support of the

explanatory γάρ that follows it (this use does not appear to fit any of Denniston's categories for γάρ in answers, *GP* 73-81). **ἐνοχον . . . τοῦ φόνου:** normally with dative (1.11n.). **οὐδὲ προσήκειν:** the three infinitives build to a climax: I was not the killer; I am not liable; I have no connection whatsoever with the affair.

**47 ἅπερ . . . ἐπείσαν:** cf. 5.94n. **οἱ πείθεσθαι τὰ μὴ δίκαια. ἀπεδίκασαν . . . καταδικάσαι** "acquit . . . convict." **καὶ οἱ μὲν ἄλλοι κτλ.:** 5.84n.

**48 εἶπον . . . ἀπέφηνα . . . μάρτυρας παρεσχόμεν:** probably referring to narrative, proof and witnesses, respectively; for witnesses cf. 6.41n. **ὅπου (bis):** here "when"; cf. 1.7n. **χρήματα:** the bribery is presented as fact, though Ch. has presented no evidence for it beyond his own assertions; but his account of the prosecution's actions is so structured as to make bribery appear the only plausible explanation. **ικανὰ ἦν** "would be sufficient"; a contrary-to-fact apodosis without ἄν (Intro. 8 iii 2), which is sometimes supplied by editors. **ἀκούσαντας:** sc. ὑμᾶς. **ἐπιорκοτάτους καὶ ἀνοσιωτάτους:** cf. 6.33, where Ch. says he will demonstrate the plaintiffs are ἐπιорκοτάτους καὶ ἀσεβεστάτους.

**49 δίκην οὐ δικάσαιντ':** δίκην δικάζεσθαι means "plead a case" or (here) "bring a suit." **τριάκοντα μνᾶς:** perhaps equivalent to \$150,000 – a very substantial bribe (Intro. 7). Ch. does not indicate his source (if any) for this figure. **ποριστῶν . . . πωλητῶν . . . πρακτόρων:** Revenue Managers (cf. Ar. *Frogs* 1505), Supervisors of Public Resources (Arist. *AP* 47.2 3), and Debt Collectors (cf. Andoc. 1.77, 1.79). All these officials managed public funds, and all served in groups (there were ten πωληταί); Ch. implies (perhaps exaggerating) that each group as a whole (with their secretaries) was guilty. **ὅρκους τοιούτους:** for the severity of oaths sworn in homicide trials see 5.11n. **οἱ δέον σε διομόσασθαι.** **ὅτι** "because." **πυθόμενος:** in view of Ch.'s other political involvement, it seems likely that he was using the powers of his position in the prytany to investigate his enemies, though he makes it sound as if the information simply came to his attention. **εἰσηγόν:** εἰσάγω = "bring a case to court" (6.42), or in this case to the Council; it may be used of an *eisangelia* (as in 6.38) but is not limited to this procedure. It is not clear what procedure Ch. uses in this case, though the details he gives are consistent with an *eisangelia* (see Hansen 1975: 112–13). **ζητοῦντας ἐπεξελεῖν** "investigate and prosecute."

Ch. lays information before the Council, which can then take action without him, as it does (6.50); he may have anticipated that his enemies would resurrect the homicide charge to remove him from the case.

**50 αὐτοί τε καὶ οἱ μεσεγγυησάμενοι:** in addition to the officials themselves, charges were brought against (according to the MSS) “those with whom money was deposited for them” (μεσεγγυησάμενοι, for the middle cf. Dem. 39.3) and “those with whom the money was deposited” (παρ’ οἷς ἐτέθη τὰ χρήματα). Since these appear to be the same people, it is probably best to delete καὶ before παρ’ οἷς. If we retain καὶ, the first deposits might be for the officials’ public financial crimes, while the second deposit would be the 30 minas (so Ba); but we must then ask why Philocrates is allowed to continue the prosecution, for if other officials have already been convicted of bribing him to prosecute, he would probably be convicted along with them, or at the very least would find himself at a great disadvantage in the prosecution. Moreover, if the present bribery had already been proven in court, Ch. would make this more explicit. **ἄν = ἐάν.**

### 51 *The epilogue*

*The epilogue is so brief and lacking in emotional or personal appeal to the jurors that many have assumed that some text is missing at the end. (If these six speeches formed one volume, these last pages would be more prone to damage.) But Ch. does turn to the jurors here, and he may wish to be rather abrupt here and leave his emotional appeal for the epilogue of his second speech.*

**51 ποῖον . . . παραβαίνειν:** repeated with slight changes from 6.49, but there the rhetorical questions introduced a specific accusation, whereas here they lead into more general conclusions. **εὐσεβεστάτους . . . δικαιοτάτους:** cf. the prosecution’s claim to be acting εὐσεβείας ἕνεκα . . . καὶ τοῦ δικαίου (6.7; cf. 3.2.12). **ἔξαπατήσοντες:** future participle of purpose.

## Fr. 1. On the revolution

*Background.* After the oligarchic government of the Four Hundred was overthrown in 411, its chief proponent, Phrynichus, was assassinated and almost all the other leading oligarchs went into exile. A. remained in Athens, however, where he and one other (Archeptolemus) were tried



and convicted of treason. The prosecution was an *eisangelia* (6. 12n.) before the Council and the specific charge concerned their participation in an embassy to Sparta near the end of the Four Hundred's brief reign. Specifically they were charged with "serving on an embassy to Sparta for the purpose of harming the city and army of the Athenians, sailing on an enemy ship, and returning on foot through Decelea" (πρεσβευομένους εἰς Λακεδαίμονα ἐπὶ κακῶι τῆς πόλεως τῆς Ἀθηναίων καὶ τοῦ στρατοπέδου πλεῖν ἐπὶ πολεμίας νεῶς καὶ πεζεῦσαι διὰ Δεκελείας). The charge and the sentence (death, confiscation of property, refusal of burial, and loss of citizen rights for their descendants) are preserved in the *Vitae decem oratorum* (= [Plut.] *Moralia* 833e–4b); see further Ferguson (1932), Hansen (1975) 113–15, Gomme *et al.* (1981) 197–200.

Although A. delivered the speech orally, he also committed it to writing, making this, to our knowledge, the first written text of a speech composed by the speaker himself. The speech was apparently an *apologia pro vita sua*, and A. probably wanted it preserved for posterity. It was widely admired at the time: one of his readers, Thucydides, called it "the best defense in a capital case" (Intro. 2), and Aristotle reports (*Eud. Ethics* 3.5) that the tragedian Agathon praised it, earning A.'s response that the praise of one expert is worth more than that of many ordinary men. Despite this reception the speech did not survive antiquity and until the twentieth century it was only known from a few lines (fr. 1b–c) and isolated words cited in Harpocration and the *Suda*.

We might wonder if this speech, like the "Apology" of Socrates, might not be a recreation of A.'s speech by a later author (Roussel 1925; cf. Gomme *et al.* 1981: 198–200). But unlike Socrates, A. made a practice of writing speeches, and the judgment of Thucydides implies that he read the speech (being in exile he could not have heard it). Some of the language seems quite characteristic of A. (ἐπιρρέπουσαν, ὁ κρατῶν εἰμι). Given how little survives, it is not surprising if, as some feel, these fragments do not seem to justify Thucydides' high opinion of the speech.

*The papyrus.* In 1907 several pages of a badly mutilated papyrus text (2–3 c. AD) were published by Nicole (Nicole 1907). They were immediately identified as from this speech, and almost all scholars have accepted this attribution (cf. Roussel 1925). The excerpt printed here is from the best preserved part of the papyrus; the restoration of other parts is mere guesswork.

The text of fr. 1a is based on Decleva Caizzi (1989) 226–8, but omits most of the specialized notation of a scholarly papyrological text. Gaps in the original and problematic restorations are indicated by half-brackets (⌈ ⌋).

*The argument.* Although we are still in the dark about A.'s overall defense strategy, these texts are of great interest and convey something of his approach to the situation and the tone of his argument. Fr. 1a begins in the middle of a common argument (cf. 5.57–63, 2.1.5–8) rejecting possible motives for the alleged crime of participation in an oligarchic coup; even though the specific charge concerned an embassy to Sparta, A. seems to have recognized and addressed specifically the broader accusation of participation in the Four Hundred that underlay the charge. A. then develops a positive εἰκός-argument, that his special profession of logographer would be curtailed under an oligarchy but would thrive under a democracy. Since he could scarcely deny his evident role in the coup, he may have gone on to argue that his goal was not oligarchy but an improved democracy.

Fr. 1b responds to the charge that A.'s grandfather was a supporter of the tyrants (cf. fr. 1a.5), and fr. 1c seems to prepare for a refutation of the prosecution's expectation that A. will use tears and supplication in his defense.

*Parallels with Socrates.* Brief as they are, these arguments suggest that, like Socrates, A. did not hesitate to use the sort of clever arguments that incurred popular distrust. As Socrates argues that he would not have intentionally corrupted the young, since they would then have a harmful effect on him (cf. Plato, *Ap.* 25d–e), A. argues that it would not have been in his own interest to desire oligarchy, since his ability with words would have no value in an oligarchy. And like Socrates (*Ap.* 34c) A. refuses to appeal to the jurors' emotions with tears and supplication. It is tempting to infer that A., who (like Socrates) was about seventy at the time of his trial, decided not to choose exile, as almost all the rest of the oligarchs did (and as many expected Socrates to do), and did not compromise his principles in presenting his case to a popular jury. In writing the speech down he, like Plato in writing Socrates' *Apology*, hoped to leave a justification of his life for posterity. He succeeded for a time, but in the long run fate did not grant his speech the success of Plato's.

**a. 1-9** The denial of motive. ἀρχὴν ἄρξαι “to hold office,” a common expression. Other supplements are possible (especially for αἰρεθεῖς), but A. must be rejecting as a possible motive the fear of an audit for financial mismanagement. The sentence presumably began with an interrogative, such as “Do you think my motive was . . .” We know of no public office A. held before 411. εὐθυναί: 6.43n. on τῶν ὑπευθύνων. ἄτιμος: someone who had been disenfranchised might hope for a new government that would restore his rights; the “Old Oligarch” argues that the disenfranchisement of a few citizens is not a threat to the democracy ([Xen.] *Ath. Pol.* 3.12-13). ἦν: the papyrus gives this form of the first person imperfect of εἰμί, as do the MSS for the nine other occurrences (5.23, 24, 29, 63; 6.26, 36, 45 *bis*; fr. 1b; also 6.15 παρῆν). But since medieval MSS normally change the older Attic form ἦ to ἦν, modern editors have generally restored ἦ in Aeschylus and Sophocles and, where possible, in Euripides (see Barrett on *Hipp.* 700) and Aristophanes. B “restored” ἦ (or παρῆ) everywhere in the text of A., even going so far as to add a καί in fr. 1b to remove the hiatus produced by this emendation. B has been followed by all later editors. But perhaps from carelessness (and without B’s guidance), Th, G and M all print ἦν here, following the papyrus, even while printing ἦ ἦ fr. 1b. The usage of Euripides and Aristophanes, even if it were certain, would not necessarily be a guide to A.’s usage, but a fourth- or fifth-century AD papyrus fragment preserves ἦ at Eur. *Rhesus* 63 where the MSS read ἦν, suggesting that the slightly earlier papyrus of A. may reflect his original text. If this is correct, it is reasonable to suppose that A. wrote ἦν (παρῆν) everywhere else. ἐπιρρέπουσαν: a rare verb occurring only in poetry before A. (cf. *Intro.* 8 ii 5); in the *Oresteia* Aeschylus plays on the connection between impending events and the inclining of the scales of δίκη (e.g. *Ag.* 707). ἄλλ’ ὥς: i.e. “or (do you think my motive was) that . . .” A. addresses the Council as representative of the previous democratic regime. τῶν προγόνων: cf. fr. 1b. εἰργασμένων . . .: the total gap appears to be four lines, perhaps forty letters in all, of which the supplements printed here occupy about two-thirds. The rest of the gap probably expressed the idea, “did you punish me [for crimes of my ancestors]?” οἱ μὲν ἄλλοι: for the contrast cf. 5.38, 5.84, etc. πολιτείας: 3.1.11. ἢ (τῆς) “rather than,” a common use after the implicit comparison in ἐπιθυμοῦσιν (cf. Xen. *Cyr.* 1.4.3 *ad fin.*).

**10-17** ἀλλὰ μὲν δὴ introduces a new argument; in the orators it is

only in Lysias (13.27, 14.44, 26.22) and here. **ἐκέρδαινον:** A.'s φιλαργυρία was apparently satirized by Plato Comicus ([Plut.] *Moralia* 833c); cf. Philostratus' report (*VS* 499) that "comedy attacks A. for being clever (δεινός) in forensic matters and for selling for a high price speeches that run counter to justice, especially to those in great danger [of conviction]." **ὁ κρατῶν** εἰμι "I am the one with power"; for the construction cf. 1.11 ἐγὼ γὰρ εἰμι . . . ὁ θέλων, *Intro.* 8 iii 5. **εἰδῶσι τοῦ λέγειν** "being skilled in speaking"; the genitive may be supported by constructions like Xen. *Hell.* 2.1.5 τοῦ γεγεννημένου οὐδὲν εἰδώς. **εἰκός:** 1.2n., *Intro.* 5. **γίγνῳσκειν:** sc. οἶός τ' εἰμί.

**b.** The fragment is cited by Harpocration (s.v. στασιώτης) as coming from this speech. He claims (wrongly, it appears) that A. uses στασιώτης here to mean "bodyguard" instead of its usual sense, "political partisan." A.'s argument apparently is that although he, like his grandfather, may have been a partisan on the side of those no longer in power, his grandfather was not punished for this nor, therefore, should he himself be punished. **Ἀπόληξι:** otherwise unknown. **οὐκ ἂν κτλ.:** "they would not have been able to punish tyrants but unable to punish bodyguards." A.'s point is apparently that if his grandfather's allegiance to the tyrants was a crime, he would have been punished when the tyranny was overthrown; since he was not, there was no crime for which A. should be punished in his place. **ἡδυνήθησαν:** for the "double augment" of δύναμαι, which may be Ionic, see LSJ s.v. *ad init.*; cf. Ant. fr. 58.8 DK. A. may intentionally be playing on the close similarity to ἡδυνάτησαν (ἀδυνατέω) that follows. **δορυφόρους:** often used of the private guard of a tyrant, such as Peisistratus (e.g. Herod. 1.59).

**c.** This fragment is assigned to this speech by most editors (B, Th, G, Mor), though the *Suda* (s.v. Ἰκετεία) attributes it to A. without naming a specific work. A. probably continued by scornfully dismissing the use of tears and lamentations, since there would seem to be no reason to cite the prosecution's expectation except to reject it. **ἀναπείθειν** sometimes implies a misleading persuasion; it may have been used by the prosecution for that reason.

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